

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.63177 of 2023**

Arising Out of PS. Case No.-207 Year-2023 Thana- KASBA District- Purnia

Md. Shamsheer Alam, son of Late Jiyauddin, resident of Village Islam Nagar,  
P.S.-Araria, District-Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate  
For the Opposite Party/s : Mr.Rabindra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

2      06-10-2023                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Special Case (N.D.P.S. Act) Case No. 65 of 2023 arising out of Kasba P.S. Case No. 207 of 2023 registered for the offence punishable under Sections 8(c), 21(c), 25 of the N.D.P.S. Act, 1985.

3. The accused/petitioner named in the FIR and is in custody since 10.06.2023.

4. Allegation against the petitioner is of having possession of 1920 bottles total 192 liters of cough syrup having one of composition as 'Codein' which is a scheduled drug in terms of N.D.P.S. Act, 1985.

5. It is submitted by learned counsel that the petitioner is neither driver nor helper and not even connected in any



manner with alleged vehicle and recovery of cough syrups rather he took the lift for a local destination and in the meanwhile he was apprehended while a raid was made by Excise Department. It is submitted that nothing surfaced during the course of investigation which may suggest that petitioner was aware about carrying prohibited cough syrup and as such it can be safely gathered recovery as alleged was not made from conscious possession. It is also submitted that the alleged recovered cough syrups were manufactured from reputed pharmaceutical company where petitioner having no role and moreover even seizure list is not suggesting any composition of prohibited drug as to calculate quantity of narcotics substance/contraband as to ascertain whether it is more than commercial quantity and as such implication of section 37 of the N.D.P.S. Act is not appears applicable in present fact. It is also submitted that seizure list is not supported by independent witnesses rather by police personnel creating doubt over entire recovery/seizure.

6. While concluding argument, it is submitted that petitioner found involved in one more criminal case of excise where he is on bail and moreover investigation of this case has been completed, for which, charge-sheet has already submitted



and, as such, there is no chance of tampering with the evidence.

7. Learned APP opposes the prayer for grant of bail to the petitioner.

8. In view of above-mentioned facts and circumstances, and by taking note of the fact that prima-facie recovery of cough syrup not appears to be made from conscious physical possession of petitioner, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, N.D.P.S. Act, Purnea in connection with Special Case (N.D.P.S. Act) Case No. 65 of 2023 arising out of Kasba P.S. Case No. 207 of 2023, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

**(Chandra Shekhar Jha, J.)**

Sanjeet/Rajeev-

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