

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21316 of 2024

Arising Out of PS. Case No.-10 Year-2024 Thana- ANDHRAMATH District- Madhubani

Laxmi Yadav @ Laxmi Narayan Yadav Son of Late Khushi Lal Yadav
Resident of Village- Arnama, P.S. Andhramath, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Advocate
		Mr. Mr.Ravi Prakash, Advocate
For the Opposite Party/s :		Mrs. Pronoti Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 19-06-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Andhramath P.S. Case No. 10 of 2024, dated 17.01.2024 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act and u/s 21/27 of N.D.P.S. Act.

3. As per the prosecution case, a cartoon and a black colored bag containing drugs have been recovered from the terrace of Laxmi Yadav (petitioner) and a cartoon containing medicines was recovered from the shop of the petitioner and the co-accused Dheeraj Kumar Yadav was found sitting there.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner has no concern with the alleged recovery. The petitioner is in judicial custody since 29.01.2024. There is a delay of one day in lodging the F.I.R.

5. Learned A.P.P. for the State also placed reliance on the judgment in the case of *Hira Singh and Anr. Vs. Union of Indian and Anr. (2020)20 Supreme Court Cases 272* of Hon’ble Apex Court has held that “weight of entire materials/mixture along with neutral material is to be considered for ascertainment of whether the quantity is “small quantity” or “commercial quantity”. The seized contraband is of commercial quantity. He also submits that the seized contraband quantity belongs to the petitioner which is more than commercial quantity. Total 106 tablets of Nitroposum-10, 847 tablets of Nitravet-10, 627 injections of Abbott (2 ml. each), 600 injections of Diazepam (2 ml. each) were recovered from the petitioner’s terrace.

List of Seized Items:

Sr. No.	Particulars	Quantity	
1.	Onerax 100 ml. syrup	132 bottle	Chlorphenamine and codeine
2.	Codiwell syrup 100 ml.	100 bottle	Codeine phosphate
3.	Nitrosun- 10 tablet	106 Nos	Nitrazepam



4.	Carispas-1	154 Nos	Urispas contains Flavoxate
5.	Nitravet- 10 tablet	847 Nos	Nitrazepam
6.	Abbott 2 ml. Injection (Phenergan)	627 Nos	Amoxyclav+ Clavulanic Acid
7.	Leegesic 2 ml injection	600 Nos	Diclofenac, Paracetamol and Chlorzoxazone
8.	Diazepam 2 ml injection	733 Nos	Entry No: 194, NDPS Act
9.	Sterile hypodermic syringe 3 ml	89 Nos	
10.	Sword	02 Nos	
11.	Mobile- Vivo Model no- v2221, Serial no- 10hcc30azk00051	01 No	
12.	Motorcycle Hero Splendor (Black Colour) No- BR 50 V 2958	01 No	

As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with:-

(i) There are reasonable ground for believing that the accused is not guilty of such offence; and

(ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the



instant case.

The Hon’ble Supreme Court in the case of *Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC Online SC 891* has held that “ *The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.*”

6. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity from conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

7. Accordingly, the prayer for bail petition of the petitioner stands rejected.

(Chandra Prakash Singh, J)

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