

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25081 of 2024

Arising Out of PS. Case No.-19 Year-2024 Thana- Excise P.S. District- Patna

Rajesh Turi S/o Dhaneshwar Turi R/o Village Jagjivan Nagar, Nutandi
(Natunda), PS saraidhela Dist Dhanbad Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhay Kumar, Advocate

For the Opposite Party/s : Mr.Sharda Kumari, A.P.P

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 15-07-2024 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Special Case No. 142/2024 arising out of Masaurhi Excise P.S. Case No. 19/2024 dated 09.01.2024 registered for the offences punishable u/s 30(a), 30(F), 32(3) and 56(b) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 110 litres of ONREX cough syrup was recovered from the vehicle which was being driven by the petitioner.

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



this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 10.01.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e. 110 litres of ONREX cough syrup containing codeine. It is further submitted that this case comes under the NDPS Act and Drugs and Cosmetics Act as per section 80 of the NDPS Act. Learned APP for the State also placed reliance on the judgment in the case of ***Hira Singh and Anr. Vs. Union of India 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".

6. 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 grounds for believing that the accused is not guilty of such offence; and

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



7. 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.*”

8. Considering the aforesaid facts and circumstances of the case as well as the material available on the record, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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