

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28034 of 2024**

Arising Out of PS. Case No.-180 Year-2023 Thana- GAMAHARIYA District- Madhepura

Dilkhush Kumar @ Indrajeet Kumar Son of Birbal Yadav @ Birendra Yadav
Resident of Village- Jogbani, Ward No. 14, P.S.- Gamharia, Dist.- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nafisu Zzoha, Advocate
For the Opposite Party/s : Mr.Rabindra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

2 19-04-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Gamhariya P.S. case No. 180 of 2023 instituted for the offences under Sections 413, 414 of the Indian Penal Code and Section 21(c) of the N.D.P.S. Act and Section 30(a) of the Bihar Prohibition and Excise Act.

3. Prosecution case, in short, is that nine pieces of WISCOF cough syrup each containing 100 mL, total 900 ml marked Golden Phosphate and Triprolidin Hydrochloride Syrup and several mobile phones were recovered.



4. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case only on the basis of suspicion. Petitioner is in custody since 06.10.2023 and has two criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating material has been recovered from the conscious possession of the petitioner. The co-accused person has already been granted bail by this Court vide order dated 04.03.2024 passed in Cr. Misc. No. 3854 of 2024. The recovered contraband is below commercial quantity, and hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances of the case, claim based on parity as also the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail, ***after framing of charge, if not already framed***, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in



connection with Gamhariya P.S. case No. 180 of 2023.

(Rudra Prakash Mishra, J)

Alok Verma/-

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