

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39489 of 2024

Arising Out of PS. Case No.-79 Year-2024 Thana- DURGAWATI District- Kaimur (Bhabua)

Tej Bahadur @ Tejbahadur S/O Late Jokhan Ram R/O Village Sio, P.S.
Chaubepur(Chauki Chiraiyago), Distt-Varanasi(U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuvan Narayan, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

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

ORAL ORDER

4 23-10-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Durgawati P.S. Case No.
79 of 2024 instituted for the offences under Sections 8(c),
21(B), 21(c), 22(c) of the N.D.P.S. Act.

3. Prosecution allegation, in short, is that the total
2000 litres of codeine syrup has been recovered in this case.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. The petitioner is in custody since 30.03.2024 and
has got no criminal antecedent. There is no allegation of
tampering of witnesses alleged against the petitioner. Learned
counsel further submitted that recovery has been made from the



truck and the petitioner being the driver of the truck has been falsely implicated on the basis of suspicion. Learned counsel further submitted that petitioner had no knowledge regarding the loaded cough syrup.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Learned A.P.P. has further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272** ***(Hira Singh and Another versus Union of India and Another)*** in which the Hon'ble Apex Court held that in case of seizure of mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by way of offending drug while determining the "small or commercial quantity" of narcotic drugs or psychotropic substance.

6. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to the



petitioner.

- 7. The prayer is rejected.
- 8. Learned Trial Court is directed to expedite the trial.

Alok Verma/-

(Rudra Prakash Mishra, J)

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