

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67455 of 2024

Arising Out of PS. Case No.-577 Year-2023 Thana- Excise P.S. District- Madhepura

Mantu Kumar S/O Rajaram Prasad Yadav @ Rajaram Yadav R/O Village-
Pithahi, ward no.12, P.S- Madhepura, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Giri, Adv.

For the Opposite Party/s : Md. Matloob Rab, APP

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

ORAL ORDER

3 25-10-2024 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 Madhepura Excise P.S. Case No. 577 of 2023, dated 12.10.2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 47 litres of wiscof cough syrup containing codeine was recovered from the Baleno vehicle.

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 occurrence. The petitioner has been made accused in this case because he is the owner of the seized vehicle. The petitioner is in judicial custody since 13.10.2023. Earlier the bail of the petitioner has been rejected by this Court vide order dated 19.04.2024 passed in Cr. Misc. No. 76060 of 2023.

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. The petitioner had no valid authorization for keeping the said contraband.

"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".

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 petitioner was apprehended by police on the spot while he was trying to flee away from the said car. The said vehicle was in possession of the petitioner at the time of alleged recovery.

6. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity of the contraband from the 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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