

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1619 of 2024**

Arising Out of PS. Case No.-313 Year-2023 Thana- SONBERSA District- Sitamarhi

Rajdeo Sah @ Rajdev Sah Son Of Sri Ram Prit Sah Resident Of Village-
Mayurva (MAJURWA), Ps- Sonbarsa, Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh

For the Opposite Party/s : Mrs. Sharda Kumari, APP

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

ORAL ORDER

3 06-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is apprehending is arrest in connection with Sonbarsa P.S Case No. 313 of 2023, dated 09.10.2023, registered for the offences punishable under Sections 21(B)(C) of the N.D.P.S. Act.

3. As per the prosecution case, during raid, total 299 bottles codiwell (cough syrup), 31 bottles of win cirex cough syrup, 195 bottles of Codiwell cough syrup, 320 tab Of Adapam tablet, mobiles with SIM and Nepali currencies were recovered after digging earth of the shop. A salesman



managed to escape but the two persons were apprehended who disclosed their names as Alok Kumar and Krishandan Kumar and Alok Kumar also disclosed that the said shop belonged to the petitioner who is his father. The said shop was run by the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and have falsely been implicated in this case. There is general and omnibus allegation against the petitioner. The petitioner has no criminal antecedent mentioned in para 3 of the bail petition.

5. Learned A.P.P. for the State submitted as per seizure list, total 525 bottles each of 100 ml. were recovered. He further submitted that the win cirex cough syrup contains Chlorpheniramine + Codeine, which comes under the provision of N.D.P.S. Act. The seized contraband is of commercial quantity. He further submitted that the seized cough syrups were recovered from the shop of the petitioner and the said shop was also run by the petitioner. Learned APP further 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”. He further submitted that 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.

6. 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 been satisfied in the facts of the instant case.

7. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity from the conscious possession of the petitioner, I am of the view that no case for grant of anticipatory bail is made out and the same is disposed of with direction to the petitioner to surrender before the court below concerned within six weeks from today and pray for regular bail and the learned Court below shall consider the prayer for regular bail of the petitioner on the same day without being prejudiced by this order.



8. The application stands disposed of.

(Chandra Prakash Singh, J)

Ranjeet/-

U		T	
---	--	---	--

