

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3855 of 2025

Arising Out of PS. Case No.-954 Year-2024 Thana- SAHARSA SADAR District- Saharsa

Kaushik Anand @ Kaushik Jha Son of Manoj Kumar Jha Resident of Village
- Laxminath Nagar Ward No.5/40, P.S. - Saharsa, District - Saharsa
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Adv.

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

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

ORAL ORDER

2 25-02-2025 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 Saharsa Sadar P.S. Case No. 954 of 2024 dated 10.09.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Amendment Act.

3. As per the prosecution case, total 420 litres of (wiscodine) codeine cough syrup was recovered from the room of 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 no concern with the alleged recovery. The petitioner has one criminal antecedent



as stated in para 3 of the bail petition. The petitioner is in custody since 10.09.2024. The co-accused has been granted regular bail by this Court vide order dated 06.02.2025 passed in Cr. Misc. No. 87468 of 2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the seized contraband is of commercial quantity. It is further submitted that the petitioner had no valid authorization for keeping the said contraband. 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 a 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 recovery of commercial quantity from the house of the petitioner, this Court is not inclined to enlarge the petitioner on bail and the same is rejected in connection with Saharsa Sadar P.S. Case No. 954 of 2024, pending in the court of learned Exclusive Special (Excise) Judge-II, Saharsa.

9. The application stands rejected.

(Chandra Prakash Singh, J)

Shivam/-

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

