

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4328 of 2025

Arising Out of PS. Case No.-62 Year-2024 Thana- GHURNA District- Araria

Md. Iqbal @ Md. Equbal, aged about 18 years (M), son of Md. Almin @ Md. Alameen @ Almin, R/o Village- Narahuwa Pathraha, Ward No. 04, P.S- Ghurna, District- Araria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Madhav Jha, Advocate

For the Opposite Party : Mr. Pradeep Narain Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 11-09-2025 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Ghurna P.S. Case No. 62 of 2024 dated 24.11.2024 registered for the offences punishable under Sections 20 and 22 of the N.D.P.S. Act, 1985.

3. As per the prosecution case, police apprehended two persons, namely, Md. Iqbal (petitioner) and the co-accused Suraj Kumar and recovered Tramadol Hydrochloride Capsule-507 strips, per strip-10 capsules, total 5070 capsules, two motorcycles and one mobile from their possession.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case. The petitioner has no concern with the seized



medicine. There is no recovery of any contraband from the possession of the petitioner. There is no independent witness to the alleged offence. The petitioner was arrested merely on suspicion from his egg shop near the Middle School, Ghurna Bazar, Araria, due to annoyance of S.S.B. personnel with the petitioner due to demand of price of the eggs. There is no statutory compliance of Section 103 of the B.N.S.S, 2023, Sections 42, 43 and 50 of the N.D.P.S. Act. The petitioner is a young boy aged about 18 years old whose life has been made hell by the S.S.B. Jawan due to revenge. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application. The petitioner is in custody in this case since 25.11.2024.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail petition of the petitioner and has further submitted that the seized contraband is commercial quantity i.e., 5070 pieces of Tramadol Hydrochloride Capsules and the petitioner has no any valid authorization for keeping the same. It is further submitted that this case comes under the N.D.P.S. Act and Drugs and Cosmetics Act as per Section 80 of the N.D.P.S. Act. Learned A.P.P. for the State has 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 in which it has been held that "weight of entire materials/mixture alongwith neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity". The act of the petitioner amounts to clear violation of Section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic substance except medical and scientific purposes.

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 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 and finding substance in the contention of the learned A.P.P. for the State as well the recovery of commercial quantity from the motorcycle of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Ghurna P.S. Case No. 62 of 2024, pending in the court of learned District and Sessions Judge-cum-Special Judge, Araria.

9. The application stands rejected.

10. The learned trial court is directed to expedite the trial of the petitioner and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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