

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6224 of 2025

Arising Out of PS. Case No.-254 Year-2024 Thana- HARLAKHI District- Madhubani

=====

Darbendra Mahto @ Dharmendra Mahto S/O Shivam Mahto R/O Village -
Nagrayan Nagar Palika Ward No.-1 , Distt.- Dhanusha (Nepal). At present
village and P.S- Harlakhi, Dist- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Kusum Rani, Adv.

For the Opposite Party/s : Mr. Pronoti Singh, APP

=====

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

ORAL ORDER

3 18-03-2025 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 Harlakhi P.S. Case No.
254 of 2024 dated 25.09.2024 registered for the offence
punishable u/ss 20 and 22 of the N.D.P.S Act.

3. As per the prosecution case, 300 tablets (10 mg
each) of Nitrazepam, 288 capsuls of Spasmo-Proxyvon Plus, 80
bottles of Exiplon cough syrup, one mobile phone and a
motorcycle were recovered from the possession of the
petitioner.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The name of the petitioner has transpired in this case



merely on suspicion. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is not the owner of the said vehicle. There is no compliance of Section 50 of the NDPS Act. The petitioner has no concern with alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 26.09.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. 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”.

S. No.	Drug Name	Composition	S No. under NDPS Act 1985	Small quantity	Commercial quantity	Quantity of Tablet/Syrup
1.	Spasmo proxyon plus	Dicyclomine (10mg)+ Paracetamol (325 mg) + Tramadol (50mg)	Tramadol-238 ZH	Tramadol (5gm)	Tramadol (250gm)	288 tablets x 385 mg =110.88 gm
2.	Exiplon cough syrup	Chlorophenermine Maleate + Codeine	Codeine-28	Codeine (10gm)	Codeine (1kg)	80 Bottles x 100 ml = 8 kg
3.	Nitrazepam	Nitrazepam	Nitrazepam-221	Nitrazepam (20gm)	Nitrazepam (500gm)	300 Tablets x 10mg = 0.3 gm



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.

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.*”

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, this Court is not inclined to grant bail to the petitioner and the same is rejected in



connection with Harlakhi P.S. Case No. 254 of 2024 pending in
the court of learned Principal Sessions Judge, Madhubani.

8. Learned trial court is directed to conclude the trial
of the petitioner at the earliest.

(Chandra Prakash Singh, J)

shivam/-

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

