

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6937 of 2025

Arising Out of PS. Case No.-93 Year-2024 Thana- Sri Nagar District- Purnia

Md. Mofil, aged about 26 years, Male, S/o Md. Khalil, R/o Village-
Kadgama, Ward No. 08, PS- Srinagar, Distt- Purnea

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Bijendra Kumar Singh, Advocate
For the Opposite Party : Mr. Dinesh Singh, A.P.P.

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

ORAL ORDER

3 13-05-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Srinagar
P.S. Case No. 93 of 2024 dated 06.11.2024 registered for the
offences punishable under Sections 21 (c) and 22 (c) of the
N.D.P.S. Act.

3. As per the prosecution case, police recovered 4.6 litres
of Rx-Codeine Phosphate & Triprolidine HCl Syrup P-KUFF,
kept in white colour plastic bag. It is further alleged that local
people told police that the said house belonged to the petitioner
who brought cough syrup containing Codeine. The petitioner
sells it from his house.

4. Learned counsel for the petitioner has submitted that



the petitioner is innocent and has falsely been implicated in the present case. No incriminating article has been recovered from his possession. The petitioner was not arrested on the spot. His name has surfaced in the present case on the basis of disclosure made by the local people. There is no statutory compliance under the provisions of the N.D.P.S. Act. He has no concern with the alleged offence. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application. The petitioner is in custody in this case since 10.12.2024.

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., 4.6 litres of Rx-Codeine Phosphate & Triprolidine HCl Syrup P-Kuff containing Codeine 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”. It is further submitted that codeine is mentioned in the Entry No. 28 of the N.D.P.S. Act. Methyle Morphine is commonly known as codeine. 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 possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Srinagar P.S. Case No. 93 of 2024, pending in the court of learned Special Judge (N.D.P.S. Act), Purnea.

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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