

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16151 of 2025**

Arising Out of PS. Case No.-543 Year-2024 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

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AJIT YADAV @ AJIT KUMAR S/O GOPAL YADAV RESIDENT OF
VILLAGE- HINDUPUR, PS -BAKHTIYARPUR, DISTRICT- SAHARSA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh
For the Opposite Party/s : Mr.Ramchandra Sahni

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

ORAL ORDER

2 03-04-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Bakhtiyarpur P.S. Case No. 543 of 2024 dated 04.12.2024 registered for the offences punishable under Sections 8 and 20b(ii)(c) of Narcotics Drugs and Psychotropic Substances Act & Section 30(a) of Excise Act.

3. As per the prosecution case, total 2.5 kg ganja and 49.2 litres of Wiscof Cough Syrup was recovered from the house 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. The seized contraband (ganja) is less than commercial quantity. No incriminating article has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 05.12.2024.

5. Learned A.P.P. for the State has opposed the bail petition of the petitioner. It is further stated that the seized contraband (Wiscof Cough Syrup) is commercial quantity i.e. 49.2 litres of Codeine Syrup which comes under the purview of the N.D.P.S. Act. It is further submitted that as per entry 28 of the list of the N.D.P.S. Act, the small quantity of Codeine as defined is 10 gm and the commercial quantity of Codeine as defined is 1 kg. Learned APP for the State has further submitted that the seized contraband is of commercial quantity for which the petitioner had no valid authorization for keeping the said contraband. Learned APP for the State has 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 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 material available on record against the petitioner, I am not inclined to enlarge the petitioner above-



named on bail.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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