

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11927 of 2025

Arising Out of PS. Case No.-316 Year-2024 Thana- SONBERSA District- Sitamarhi

Shivji Mahto S/O Ramabali Mahto @ Rambali Mahto Resident of village -
Jainagar, Ward No.- 10, P.S- Sonbarsa, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hemant Ray, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 18-07-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
Sonbarsa P.S. Case No. 316 of 2024 instituted for the offences
under Sections 21(b), 21(c) of the NDPS Act.

3. Prosecution allegation, in short, is that, on the basis
of secret information, police raided Puja Medical Hall and
recovered 25 bottles of Onerex Cough syrup. Further, on inquiry
of the Shopkeeper of the said medical store, search was
conducted in the house of Shivji Mahto (petitioner herein),
however, the wife of Shivji Mahto, namely, Ram Somari Devi
obstructed the police personnel and also hurled abuses.
However, after subjugation of the Ram Somari Devi, police



personnel conducted search and recovered total 700 bottles of cough syrup of three different brands and a large number of injections were also recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner is in custody since 09.10.2024 and has got three criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits that not even a single witness has come forward to say about the petitioner that he is supplier of the medicines. There is no compliance of Sections 42 and 50 of the NDPS Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that he has filed counter-affidavit in the present matter and has specifically mentioned the quantities of the respective contraband in paragraph nos. 12 to 22. Learned APP, therefore, submitted that the recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Learned A.P.P. has further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272 (Hira Singh and Another versus Union of India and Another)**



in which the Hon'ble Apex Court held that in case of seizure of mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by way of offending drug while determining the "small or commercial quantity" of narcotic drugs or psychotropic substance.

6. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to the petitioner.

7. The prayer is rejected.

(Rudra Prakash Mishra, J)

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