

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15355 of 2025

Arising Out of PS. Case No.-357 Year-2024 Thana- RAXAUL District- East Champaran

Rahul Kumar S/O Mahesh Prasad Village- Ashram Road, Raxaul, Ward
No.10, P.S.- Raxaul, District- East Champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Adv.
For the Opposite Party/s : Mr. Chaubey Jawahar, APP

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

ORAL ORDER

2 21-03-2025 Heard learned counsel for the petitioner and Mr.
Chaubey Jawahar, learned A.P.P. for the State.

2. The present bail petition has been heard side-by-side Cr. Misc. No. 86244 of 2024 arising out of same police station case number in which detailed counter affidavit has been filed by the State, giving full descriptions of the seized articles.

3. The petitioner seeks bail in connection with Raxaul P.S. case No. 357 of 2024 (N.D.P.S. G.R. Case No. 85 of 2024) instituted for the offences under Sections 20(b)(ii)(c), 22(c), 23, 25 and 29 of the Narcotic Drugs & Psychotropic Substance Act.

4. As per prosecution case, the police, on receipt of secret information, raided the house of the petitioner/Rahul Kumar. On seeing the police party, the accused persons tried to



flee away from there but, on chase, they were apprehended by the police who disclosed their names as Rahul Kumar (the petitioner), Sagar Kumar and Rajan Tiwari. On search, 03 packets weighing 01 Kg. 465 grams *Charas*, huge quantity of intoxicant medicines, Indian currency notes and coins and Nepali notes were recovered, which were kept in the southern room of the house.

5. Learned counsel for the petitioner submitted that the petitioner is innocent and has falsely been implicated in the present case. Petitioner is in custody since 03.10.2024 and has two criminal antecedents and in both of them, he is on bail as has been stated in Para-3 of the present bail petition. Nothing incriminating has been recovered from the conscious/physical possession of the petitioner. The petitioner has never indulged in such type of activities and has been arrested by the police merely on the basis of suspicion. There is no allegation of tampering of witnesses alleged against the petitioner. There is no compliance of Section 42 and 50 of the N.D.P.S. Act. Charge-sheet has been submitted in this case.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner stating that the offence alleged is serious in nature. Learned A.P.P. submits



that the police has recovered 01 Kg. 465 Grams *Charas* including huge quantity of intoxicant medicines, Indian currency notes and coins as also Nepali notes etc. from the house of the petitioner. The recovered contraband is above the commercial quantity and, hence, there is bar under Section 37 of the N.D.P.S. Act. The Investigating Officer, after completion of investigation, has submitted charge-sheet under Sections 20(B) 11(C)/22(C)/23/25/29 of the N.D.P.S. Act.

7. From perusal of the detailed counter affidavit filed in Cr. Misc. No. 86244 of 2024, it appears that in Para-7 of the same, it has been stated that total 360 tables of Semplex Plus Capsules were recovered containing 18 gram of Tramadol which is above the small quantity but below the commercial quantity. In Para 8, it has been stated that total 414 tables of Nitrazohm-10, Netzecare-10 and Nitravet-10 were recovered which contains 4.14 gram of Nitrazepam and the same is lesser than the small quantity. In Para-9, it has been stated that 51 pieces of Onerex syrup of 100 ml were recovered which contains total 10.2 gram of Codeine which is more than the small quantity but, less than the commercial quantity. Lastly, in Para-10, it has been stated that 1 Kg. 465 Gm Charas were also recovered which is above the commercial quantity.



8. This Court finds that the police has recovered huge quantity of intoxicant medicines, Indian currency notes and coins and Nepali currency notes including 01 Kilogram 465 grams of *Charas* from the house of the petitioner. The quantity of *Charas* is much more than the commercial quantity coupled and, hence, embargo under Section 37 of the N.D.P.S. Act comes into play. It also appears that the petitioner is the member of the criminal conspiracy and there is every reasonable ground to believe that the petitioner, if released on bail, will again commit the same offence in future. Considering the aforesaid fact, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, the prayer for bail of the petitioner is rejected with a direction to the court below to expedite the trial conclude the same expeditiously.

(Rudra Prakash Mishra, J)

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