

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21940 of 2025

Arising Out of PS. Case No.-277 Year-2024 Thana- HARLAKHI District- Madhubani

1. Avinash Narayan Yadav, Son of Umesh Yadav , Resident of village-Sinyahi, P.O.+P.S.-Singyahi, District-Mahottari, Nepal.
2. Arvind Kumar Sah Son of Kameshwar Sah, Resident of Village-Khutapiprahi, P.O.+P.S.-Mahottari, District-Mahottari, Nepal.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Ashutosh Nath, Advocate Mr. Amritanshu Dangi, Advocate Mr. Atif Iqbal, Advocate Mr. Kunal Raushan, Advocate
For the Opposite Party/s :		Md. Iftexhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 18-09-2025 Heard learned counsel for the petitioners and

learned Additional Public Prosecutor for the State.

2. The petitioners seek bail in connection with G.R.

No. 78 of 2024 arising out of Harlakhi P.S. Case No.277 of

2024 registered for the offences punishable under Sections

20 and 22 of the Narcotic Drugs and Psychotropic Substances

Act, 1985 (in short 'NDPS Act').

3. The accused/petitioners are named in the FIR

and are in custody since 22.10.2024.

4. Allegation against the petitioners is to have in



possession of a plastic jar containing **"Exiplon cough syrup"** of 5 kg. along with 22 bottles each containing 100 ml. i.e. total of 7.2 kg. of **"Exiplon cough syrup"**, where one of the composition is **'codein'**, which is a narcotic substance and prohibited drugs in terms of the NDPS Act, 1985.

5. It is submitted by learned counsel appearing for the petitioner that the seized material apparently was not sent for forensic examination. It is submitted that without any forensic examination, it can not be said that the materials containing jar and bottles having constituent 'Codein'. It is submitted that the charge-sheet was submitted without obtaining F.S.L. report only to defeat the statutory right of petitioner as available under Section 167(2) of the Code of Criminal Procedure *qua* default bail. In this context, learned counsel has relied upon the legal report of Hon'ble Supreme Court i.e. **Divyas Bardewa vs. Narcotics Control Bureau [Special Leave to Appeal (Crl.) No.11628 of 2022]** which is pending for consideration before the Hon'ble Supreme Court and till outcome of the said case, the petitioner is entitled for interim bail.



6. Learned APP opposed the prayer for grant of bail to the petitioners.

7. In view of aforesaid factual submissions and by taking note of fact that *prima facie* charge-sheet appears to be submitted without obtaining forensic report *qua* seized cough syrup, where petitioners remain in custody since 22.10.2024, accordingly, in view of **Divyas Bardewa's case** (supra), both petitioners, above-named, are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Principal Sessions Judge, Madhubani, Bihar in connection with Harlakhi P.S. Case No.277 of 2024 (G.R. No.78 of 2024) subject to the outcome of the aforesaid case as also subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS').

(Chandra Shekhar Jha, J.)

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