

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.19233 of 2025**

Arising Out of PS. Case No.-380 Year-2024 Thana- Sahayak Khajanchi District- Purnia

Md. Istiyak Alam Son of Ainul Haque @ Alnul Haque Resident of Village-  
Basantpur Ward No. 46, PS- Purnea Sadar, District- Purnea At Present  
Residing at Madhepura, Durga Asthan Ward No. 26, PS- Sahayak Khajanchi,  
District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 20497 of 2025**

Arising Out of PS. Case No.-380 Year-2024 Thana- Sahayak Khajanchi District- Purnia

Raja Khan Son of Ali Md. Khan Resident of Farim Gola, Ward No.- 3, P.S.  
and District - Kishanganj at present residing at village - Madhopara, Durga  
Asthan, Ward No.- 26, P.S.- Sahayak Khajanchi, District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 19233 of 2025)

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate  
Mr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr. Akbar Ali, Advocate

(In CRIMINAL MISCELLANEOUS No. 20497 of 2025)

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate  
Mr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr. Akbar Ali, Advocate

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

ORAL ORDER

4      01-07-2025      Heard learned counsel for the petitioners and learned APP  
for the State.

2.      The petitioners seek bail in Sahayak Khajanchi P.S.

Case No. 380 of 2024 instituted for the offences under Sections



277 & 278 of the Bharatiya Nyaya Sanhita, 2023, Sections 27(i) (ii) & 27(2) of the Drugs and Cosmetic Act, Section 8(c) & 21(b) of the N.D.P.S. Act and Section 30(a) of the Bihar Prohibition and Excise Act.

3. Prosecution case in short is that the informant recorded his statement alleging that the accused Raja Khan and Md. Isteyak were storing prohibited codeine-based cough syrup. Acting on this, a police raid was conducted in the rented premises where a large quantity of Phensady1 cough syrup was seized—specifically 1999 bottles (199.9 L) in two plastic sacs, 390 bottles (39.5 liters), and additional containers totaling 289.4 liters of codeine syrup. Two vehicles suspected to be used for transporting the contraband—a four-wheeler and a motorcycle—were also seized.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. The petitioners are in custody since 01-01-2025, and have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. Learned counsel for the petitioners submits that in fact recovery is made from the house of one Amiruddin and petitioners have been implicated only because they are employee of the Amiruddin.



Petitioners are neither the owner of the vehicle nor there is recovery from their conscious possession. Charge-sheet is submitted in this case. 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 petitioners. Learned A.P.P. submits that 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



petitioners.

- 7. The prayer is *rejected*.
- 8. Learned Trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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