

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21977 of 2025

Arising Out of PS. Case No.-38 Year-2025 Thana- Excise P.S. District- Madhepura

Surendra Yadav S/O Late Mohan Prasad Yadav R/O Vill.- Rahta, Ward no. 13,
P.S.- Kumarkhand, Dist.- Madhepura.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dinesh Prasad Verma, Adv.

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood, APP

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

ORAL ORDER

4 30-07-2025 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 Madhepura P.S. Case No. 38 of 2025 dated 13.02.2025 registered for the offences punishable u/ss 30(a) and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 29.300 litres of Wiscof codeine cough syrup was recovered from the possession 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 petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has one criminal antecedent as stated in



para 3 of the bail petition. The petitioner is in custody since 14.02.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the said recovery has been made from the possession of the petitioner. Learned counsel has further submitted that the seized contraband is commercial quantity i.e. 29.300 litres of Wiscof codeine cough syrup. The petitioner had no valid authorization for keeping the same. It is further submitted that this case comes under the NDPS Act and Drugs and Cosmetics Act as per section 80 of the NDPS Act. Learned APP for the State 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 recovery of commercial quantity of Wiscof codeine cough syrup from the conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Madhepura Excise P.S. Case No. 38 of 2025 pending in the court of learned Court of Special Judge- Excise Court no. 2- Mahepura.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

10. The application stands rejected.

(Chandra Prakash Singh, J)

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