

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23061 of 2025

Arising Out of PS. Case No.-83 Year-2025 Thana- SITAMARHI District- Sitamarhi

Sanjeet Patel @ Sanjit Patel @ Sanjit Kumar Patel S/o Mohan Patel @
Mohan Ray, Resident of Village- Bhup Bhairo, Ward No. 6, PS- Sitamarhi,
District- Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Shankar Kumar, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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

ORAL ORDER

2 29-04-2025 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Sitamarhi P.S. Case No. 83 of 2025, dated 29.01.2025 registered for the offences punishable under Section 317(5) of the B.N.S. and also under Sections 8 and 21(C) of the NDPS Act.

3. As per the prosecution case, during the course of vehicle checking, the informant saw that one person, who was on a scooty tried to flee, but later he was apprehended by the police and from the search of the said scooty, 117 pieces each of 100 mL prohibited RJT-SCEN Cough linctus syrup, Rs. 36,170/- cash and one mobile phone were recovered.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case merely on the basis of suspicion. He has further submitted that the petitioner's brother runs a medical shop namely, Shree Mohan Pharma and he ordered 120 bottles of cough syrup from a wholesaler, who packaged only 117 bottles of the said cough syrup, which the petitioner was carrying. The petitioner has one criminal antecedent as stated in paragraph no. 3 of the bail petition. The petitioner is in custody since 29.01.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submits that the contraband substance recovered from the possession of the petitioner is of commercial quantity. The petitioner has submitted a receipt to justify lawful possession of the seized material, however, upon perusal of the said receipt, it is found that it does not bear any date of manufacturing of alleged product. Thus, the absence of such crucial information casts a serious doubt on the genuineness of the said receipt and the same appears to be fake. 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 SCC 272*** of Hon'ble Apex Court has held that "weight of entire materials / mixture along with the neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity". The petitioner had no valid authorization for keeping the same. Learned counsel has further submitted that the bail of the co-accused person had already been rejected by this Court *vide* order dated 05.02.2025 passed in Cr. Misc. No. 85305 of 2024.

6. As per Section 37 of the NDPS 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 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 chargesheet 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 NDPS Act.*”

8. Considering the aforesaid facts and circumstances of the case as well as finding no merit in the contention of learned counsel for the petitioner, I am not inclined to enlarge the petitioner, above-named, on bail.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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