

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24133 of 2025

Arising Out of PS. Case No.-72 Year-2025 Thana- Excise P.S. District- Khagaria

1. Md. Amanat S/O Md. Saud R/O Maraiya Islampur, ward no - 01, P.S.- Parbatta, District - Khagaria
2. Md. Shahid @ Md. Shahid Alam S/O Md. Sudhir R/O Vill.- Kulharia, ward no - 02, P.S.- Parbatta, District - Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rohit Raj

For the Opposite Party/s : Mr.Anil Prasad Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-04-2025 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners have preferred this application for grant of regular bail in connection with Khagaria Excise P.S. Case No. 72/2025 dated 05.03.2025 registered for the offence punishable u/s 30(a)(f) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 51.800 litres of codeine phosphate and Triprolidine HCL syrup, RTX Scen cough syrup was recovered from the tempo.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the



possession of the petitioners. The petitioners are neither the owner nor the driver of the said vehicle. The petitioners have no concern with the alleged occurrence. The petitioners have clean antecedent as stated in para 3 of the bail petition. The petitioners are in custody since 06.03.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioners by submitting that the seized contraband is commercial quantity i.e. 51.800 litres of codeine phosphate and Triprolidine HCL syrup, RTX Scen cough syrup and the petitioners have no any valid authorization for keeping the same. It is further submitted that this case comes under the N.D.P.S. Act and the Drugs and Cosmetics Act as per section 80 of the N.D.P.S. Act. It is further submitted that the petitioners were found sitting in the said vehicle. Learned APP for the State has 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". It is further submitted that codeine is mentioned in the Entry No. 28 of the N.D.P.S. Act. The act of the petitioner amounts to clear violation



of section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic substance except medical and scientific purposes.

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 from the conscious possession of the petitioners, this Court is not



inclined to grant bail to the petitioners and the same is rejected in connection with Khagaria Excise P.S. Case No. 72/2025 pending in the Court of learned Special Judge (Excise)-II, Khagaria.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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