

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26030 of 2025

Arising Out of PS. Case No.-7 Year-2024 Thana- ISHAKCHAK District- Bhagalpur

Kanhaiya Thakur S/O Jaldhar Thakur @ Janardan Thakur Village- Harizan
Tola, Jhopadpatti, Gumti No. 2, P.s.- Ishak Chak, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.

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

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

ORAL ORDER

5 01-09-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has earlier moved before this Court with a prayer for anticipatory bail which was rejected vide order dated 29.11.2024 passed in Cr. Misc. No. 47971 of 2024.

3. The petitioner seeks bail in connection with Ishakchak P.S. case No. 07 of 2024 instituted for the offences under Sections 21(c), 22(c) of the N.D.P.S. Act, 1985.

4. As per prosecution case, the police has recovered total 530 bottles of Corex syrup each containing 100 ml. cough syrup from the hut and, thereafter, seizure list was prepared.

5. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case.



Petitioner is in custody since 09.01.2025 and has two criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner was neither apprehended on spot nor anything incriminating has been recovered from his possession. He further submits that the hut from which recovery of cough syrup is said to have been recovered does not belong to the petitioner rather it was a totally in abandoned condition and accessible to one and all. The name of the petitioner has transpired in this case on the basis of the confessional statement of the co-accused Deepak Das recorded before the police which has no evidentiary value in the eye of law. The petitioner has no concern with the recovered cough syrup. He further submits that the total quantity of the seized codeine is 53 gms. in total 536 bottles of cough syrup which is below the commercial quantity and, hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. Learned counsel for the petitioner further submits that the seizure list does not bear the signature of the petitioner rather the signature is of co-accused Deepak Das who has already been granted bail by a Co-ordinate Bench of this Court vide order dated 26.07.2024 passed in Cr. Misc. No. 34819 of 2024.



6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned counsel for the State has filed counter affidavit and supplementary counter affidavit in the matter, wherein he has placed reliance on the judgment passed by the Hon'ble Apex Court in the case of *Hira Singh Vs. Union of India* reported in **2020 SCC 272** and has stated that during raid, total 530 bottles (each of 100 ML totaling 53000 ML of Codeine Cough Syrup) have been recovered from the hut of the petitioner and, as per calculation, total proportion of Codeine is 106 grams.

7. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the petitioner, there being no signature of the petitioner in the seizure list as also taking into account the fact that the apprehended co-accused Deepak Das has already been granted bail by a Co-ordinate Bench of this Court, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Ishakchak P.S. case No. 07 of 2024, subject to



the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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