

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26583 of 2025

Arising Out of PS. Case No.-151 Year-2024 Thana- NARPATGANJ District- Araria

Kewal Yadav S/O Late Puhup Yadav R/O Village- Bela Ward No. 08,
Basmatiya, P.S- Narpatganj, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Parmanand Prasad, APP

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

ORAL ORDER

3 22-07-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with NDPS
Case No. 90 of 2024 arising out of Narpatganj P.S. Case No.
151 of 2024 instituted for the offences under Sections 21(c) , 22
& 23 of the NDPS Act and Section 30(a) of the Bihar
Prohibition and Excise Act.

3. On secret information, police raided the house of
petitioner on 05.04.2024, but he escaped from the spot. During
the raid, 5 liters Eskuf Dx syrup, 5 liters Codiwell syrup, 1500
Nitrosum tablets, 864 Spasmo Proxyvon tablets, 26,000
Nepalese rupees, and 46.5 liters Nepali liquor were recovered.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in the present case due to ulterior motives. The petitioner has seven criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits that petitioner was not present at the place of occurrence. No incriminating article has been recovered from the conscious possession of the petitioner or from his house. There is no compliance of Section 103 of the BNSS, 2023. There is no compliance of Sections 42 & 50 of the NDPS Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. 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 anticipatory bail to the petitioner.

7. The prayer for grant of bail to the petitioner is *rejected*.

8. The Trial Court is directed to expedite the trial as expeditiously as possible without any undue delay and unnecessary adjournments.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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