

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31821 of 2025**

Arising Out of PS. Case No.-88 Year-2024 Thana- Tilkamanjhi District- Bhagalpur

Raushan Khatoon D/O Late Latif Khan R/M- Samsher Ganj Chandmari Road
Gaushala Road Aria Rahika Ward no.- 2, P.S- Shayk, P.S Dist.- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh
For the Opposite Party/s : Mr.Ram Priya Sharan Singh

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

ORAL ORDER

2 22-07-2025 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 Tilkamanjhi P.S. Case No. 88 of
2024 dated 09.06.2024 registered for the offence/s punishable u/ss
21 and 22 of the NDPS Act and 18, 27 of the Drug and Cosmetic
Act.

3. As per the prosecution case, total 20 bottles each
containing 100 ml of Codeine Phosphate and Tropolidine HCL
syrup were recovered from the bag which was kept by the side of
the leg of the petitioner who was sitting beside the driver of the
car.

4. Learned counsel for the petitioner has submitted that
the petitioner is innocent and has falsely been implicated in this
case. The petitioner took a lift from the co-accused in his car. The



petitioner is not the owner of the said car. The petitioner is lady and she has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 10.06.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the quantum of recovery of cough syrup is commercial quantity and the petitioner had no valid authorization for keeping the same. It is further submitted that the petitioner was found sitting in the said car at the time of the alleged occurrence. 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 in which it is 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. Earlier the regular bail of the petitioner has been rejected by this court vide order dated 25.10.2024 passed in Cr. Misc. No. 55501/2024.

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 petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Tilkamanjhi P.S. Case No. 88 of 2024, pending in the Court of learned Additional Sessions Judge-1st, Bhagalpur.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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