

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37447 of 2025

Arising Out of PS. Case No.-31 Year-2025 Thana- HARLAKHI District- Madhubani

Laxman Gupta son of Vishwanath Gupta Village -Pipraun PS -Harlakhi
District -Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Adv. Mr. Vinod Kumar, Adv. Mr. Rajesh Kumar, Adv.
For the Opposite Party/s :		Mr. Harendra Prasad, APP

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

ORAL ORDER

3 19-08-2025 Heard learned counsel for the petitioner and learned

APP for the State.

2. The petitioner seeks bail in connection with

Harlakhi P.S. case No. 31 of 2025 (G.R. No. 11 of 2025)

instituted for the offences under Sections 20, 22 of the

N.D.P.S. Act.

3. As per prosecution case, the police has recovered

15 pieces (100 ml each) Triprolidine Hydrochloride & Codeine

Phosphate Cough Syrup (100 ml each), 12 Nitrazepam

Tablets IP 10 MG (Nitravet-10) and 10 Spasmo Proxyvon

Plus Capsule from the possession of the apprehended co-



accused Suman Kumar Roy. On query, he disclosed that he had purchased the alleged medicines from the owner of Gupta Hardware Laxman Gupta. It is further alleged that the police raided the Gupta Hardware and recovered prohibited medicines as described in the written application including 95 bottles (100 ml each) of Codeine-containing cough syrup.

4. Learned counsel for the petitioner submitted that the petitioner is innocent and has falsely been implicated in the present case merely on the basis of suspicion. He further submits that there is delay of one day in lodging the F.I.R. that too without there being any plausible explanation for the same which creates doubt in the veracity of the prosecution case. Petitioner is in custody since 01.05.2025 and has one criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Nothing incriminating material has been recovered from the conscious possession of the petitioner. There is no compliance of Section 42 and 50 of the N.D.P.S. Act. There is also non-compliance of Section 103 of the B.N.S.S.

5. Learned A.P.P. for the State has vehemently



opposed the prayer for grant of bail to the petitioner. Learned counsel for the petitioner has filed counter affidavit in the matter and, after calculation, in Para-11 thereof, it has been stated that the total quantity of Codeine Phosphate in 95 pieces (100 ml each) of seized WISCODIN cough syrup is 19 grams which exceeds the amount of small quantity but, is much below the commercial quantity. He further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272 (Hira Singh and another vs. 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. Accordingly, he submits that the total recovery of 9.5 liters of Codeine-containing cough syrup is a psychotropic drug and is also more than the commercial quantity.

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 bail to the petitioner.

7. Accordingly, the prayer for bail of the petitioner is rejected.

(Rudra Prakash Mishra, J)

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