

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37287 of 2025

Arising Out of PS. Case No.-173 Year-2025 Thana- Excise P.S. District- Begusarai

Jagarnath Sah S/O Late Ram Nath Sah R/O Village- Mirganj Patel Chowk,
Ward no. 31, PS- Town, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar Thakur, Adv.

For the Opposite Party/s : Mr.Humayou Ahmad Khan, APP

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

ORAL ORDER

3 24-07-2025 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 Excise Case No. 173 of 2025 dated 14.05.2025 registered for the offence punishable u/ss 30(a), 30(f) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 321.400 litres of codeine cough syrup was recovered from the godown of the co-accused, Ramanand Mahto and 70.500 litres of codeine cough syrup was recovered from the E-rickshaw and the said vehicle was being driven by the petitioner who was apprehended by police.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. The petitioner has been made accused in this case merely on suspicion. The petitioner has no concern with the said godown. The petitioner is the driver of the said E-rickshaw but he has no concern with the alleged recovery. It is further submitted that the present case comes under the purview of Drugs and Cosmetics Act. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 14.05.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e., 391.900 litres of **codeine cough syrup** which was recovered from the godown of the co-accused person and the E-rickshaw of the petitioner. The bail application of the co-accused was earlier rejected by this court vide order dated 23.06.2025 passed in Cr. Misc. No. 37325/2025. The petitioner had no any valid authorization for keeping the same. 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 material available on the record, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Excise P.S. Case No. 173 of 2025, pending in the Court of learned Exclusive Special Excise Judge-II, Begusarai.

9. The learned trial court is directed to expedite the trial and conclude the same within 9 months.

10. The application stands rejected.

(Chandra Prakash Singh, J)

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