

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37325 of 2025

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

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Ramanand Mahto S/O Late Parshuram Mahton Resident of Telia Pokhar,
Ward No.- 22, P.S- Ratanpur, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rahul Singh, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-06-2025 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 petitioner and 70.500 litres of codeine cough syrup was recovered from the E-rickshaw.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner is the owner of the said godown. It is further submitted that no case is made out u/s 30(a), 30(f) and 32(3) of Bihar Prohibition and Excise Act against the petitioner as neither any excise goods was recovered from his conscious possession nor he was found engaged in trade of illegal codeine cough syrup. It is further submitted that the present case comes under the purview of Drugs and Cosmetics Act. The petitioner has no concern with alleged recovery. 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**. The petitioner has 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 Case No. 173 of 2025, pending in the Court of learned Exclusive Excise Judge-II, Begusarai.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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