

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38558 of 2025

Arising Out of PS. Case No.-139 Year-2025 Thana- SONBERSA District- Sitamarhi

Bhupendra Rai @ Raja Babu Son of Ram Narayan Rai Resident of Village-
Jainagar, ward no.- 9, P.S.- Sonbarsa, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

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

ORAL ORDER

5 02-09-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with
Sonbarsa PS Case No. 139 of 2025 instituted for the offences
under Sections 8, 20(b)(ii)(A) & 21(c) of the NDPS Act.

3. Prosecution allegation, in short, is that police on a
tip-off, raided the house of the petitioner and on search, there is
recovery of 44 bottles weighing 100 mL each wincerex cough
syrup containing codeine phosphate.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. The petitioner is in custody since 15-04-2025 and
has got no criminal antecedent. There is no allegation of



tampering of witnesses alleged against the petitioner. Learned counsel further submits that petitioner has no concern with the recovered contraband. Nothing has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner goes on to submit that there is no compliance of Sections 42 and 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 bail to the petitioner.

7. The prayer 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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