

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42081 of 2025

Arising Out of PS. Case No.-38 Year-2025 Thana- Bathnaha District- Araria

=====

Mohammad Naim @ Md. Naim @ Naim Baitha S/o Md. Hasamuddin Baitha
@ Hasa Mudin Baitha @ Mohammad Hasamuddin R/o vill - Amouna, P.S.-
Jogbani, Distt.- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Gopal Kumar Jha, Adv.

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem, APP

=====

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

ORAL ORDER

3 16-07-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Bathnaha P.S. Case No.
38 of 2025 instituted for the offences under Sections 21(c), 22,
23 of the NDPS Act and Section 111 of the Bhartiya Nyaya
Sanhita, 2023.

3. Prosecution allegation, in short, is that total 2607
bottles of Eskuf Cough Syrup (100ml each) containing Codeine
Phosphate has been recovered from Scorpio vehicle.

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 14.05.2025 and
has one criminal antecedent in which he is on bail. Charge-sheet



has been submitted in this case. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits petitioner is the driver of the alleged seized vehicle and was not aware of the seized contraband kept in the same. No incriminating article has been recovered from the conscious possession of the petitioner. Petitioner has no concern with the seized contraband. There is no compliance of Sections 42 and 50 of the N.D.P.S. 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 around 260 litres which 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 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. He further submits



that the prayer for bail of the co-accused Manjar Ahmad has already been rejected by this Court vide order dated 08.07.2025 passed in Cr. Misc. No. 40760 of 2025.

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.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

