

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43460 of 2025

Arising Out of PS. Case No.-64 Year-2025 Thana- HARLAKHI District- Madhubani

Kanhaiya Singh @ Kanhaiya Kumar Singh Son of Late Prahalad Singh
Resident of village - Pipraun, P.S.- Harlakhi, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Miss. Kusum Rani, Adv.

For the Opposite Party/s : Mr. Anish Chandra, APP

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

ORAL ORDER

3 15-09-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Harlakhi P.S. Case No. 64 of 2025 (G.R. No. 24 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 total 40 bottles of Codeine Phosphate & Triprolidine Hydrochloride cough syrup, Onerex (each of 100 ml) in this case.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case due to local politics. The petitioner is not the owner of the



seized four wheeler. The name of the petitioner has surfaced in this case in course of investigation on the basis of the confessional statement of the co-accused persons recorded before the police which has no value in the eye of law. Except confessional statement of the co-accused, there is nothing adverse against the petitioner in the entire record of the case. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner or from his premises. The petitioner has never indulged in dealing with the contraband medicine or N.D.P.S. articles. The petitioner has no concern with the seized liquor. Charge-sheet has been submitted in this case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. The petitioner has four criminal antecedents and is languishing in judicial custody since 01.05.2025 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. He further submits that the petitioner bears four criminal antecedents of similar nature of offences and, hence, he does not deserve bail. Learned counsel for the State has filed counter affidavit in this case. Para-10, being relevant, reads as follows:-

*“10. That, the deponent herein submits
that, a total of 40 Pcs. of CODEINE PHOSPHATE*



*& TRIPOLODINE HYDROCHLORIDE SYRUP
100 ml each were recovered and seized i.e. 40X100
ML= 4,000 ML = 4 Liters.*

*It is made clear that, each 5 ml of the
CODEINE PHOSPHATE & TRIPOLODINE
HYDROCHLORIDE SYRUP contains 10 mg of
Codeine Phosphate. Codeine is defined at Sl. No.28
of the N.D.P.S. Table as provided under N.D.P.S.
Act in which small quantity is 10 grams and
commercial quantity being 1000 grams i.e. 1 KG.
However, in view of the judgment of the Apex Court
in Heera Singh versus The Union of India, (Cr.
App. No. 722 of 2017), the entire mixture/solution
which is mixed with Codeine Phosphate a
prohibited drug under the N.D.P.S. Act is to be
considered as Psychotropic drug and is a
prohibited article under the N.D.P.S. Act and thus
the total recovery of 5 liters of WISCODIN cough
syrup is a psychotropic drug and clearly also more
than the commercial quantity of 1 Kg.”*

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case, the period of custody of the petitioner as also the fact that nothing incriminating/contraband has been recovered from the conscious possession of the petitioner, let the petitioner, abovenamed, be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs.15,000/- (Rupees Fifteen Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in



connection with Harlakhi P.S. Case No. 64 of 2025 (G.R. No. 24 of 2025), subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found indulged in commission of same crime after being released on bail, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(Rudra Prakash Mishra, J)

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