

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44035 of 2025

Arising Out of PS. Case No.-173 Year-2025 Thana- LADANIA District- Madhubani

Mahesh Kumar Yadav, Son of Ram Deo Yadav, Resident of village –
Bishanpur, Ward No.- 11, P.S.- Ladaniya, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Gagan Deo Yadav, Advocate
	Mr. Rajesh Kumar, Advocate
For the Opposite Party/s :	Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

6 17-12-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for bail in connection with Ladaniya P.S. Case No. 173 of 2025 registered for the offence punishable under Sections 20 and 22 of the N.D.P.S. Act.

3. The case of the prosecution, in short, is that 20 bottles of Codiwell cough syrup (100 ml. each) and 30 bottles of Onerex cough syrup (100 ml. each) were recovered from the bag of the petitioner.

4. Learned counsel appearing on behalf of the petitioner has submitted that petitioner is innocent and has committed no offence. He has been falsely implicated in this case. While making the seizure, police has not complied



Section 105 of the B.N.S.S. Petitioner is having no criminal antecedent and he is languishing in judicial custody since 26.05.2025.

5. Learned counsel for the petitioner has submitted that the Central Government has issued Notification No. S.O. 826(E) dated 14.11.1985 which is given hereunder:-

“S.O. 826(E). - In exercise of the powers conferred by sub-clause (b) of clause (xi) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Central Government hereby declares the following narcotic substances and preparations to be manufactured drugs, namely:-

XXX

35. Methyl morphine (commonly known as 'Codeine') and Ethyle morphine and their salts (including Dionine), all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100 milligrams of the drug per dosage unit, and with a concentration of not more than 2.5% in undivided preparations and which have been established in Therapeutic



practice.

xxx”

6. In this case, Onerex cough syrup has been recovered from the possession of the petitioner and the concentration of the codeine in this drug is approximately 0.2% which is less than 2.5% as provided in the above notification.

7. Learned APP appearing for the State has vehemently the application for bail and has submitted that in the case of **Hira Singh and Anr. V. Union of India and Anr.**, the Hon’ble Supreme Court has held that entire non-toxic material which is mixed with the contraband will be considered as the contraband and as such, the quantity which has been recovered from the possession of this petitioner is commercial quantity.

8. In this regard, it is worth mentioning that in view of Section 2(d) of the N.D.P.S. Act, the drug itself is not narcotic drug then there is no jurisdictional basis for the case and the Court would not have a reason to go into the question of quantities. The Central Government has power to issue notification time to time.

9. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court



is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned A.D.J., Madhubani in connection with Ladaniya P.S. Case No. 173 of 2025.

(Ashok Kumar Pandey, J)

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