

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45226 of 2025

Arising Out of PS. Case No.-111 Year-2025 Thana- GAIGHAT District- Muzaffarpur

Md. Absar Alam @ Absar Alam @ Md. Absar, S/o Md. Kasim, Resident of
Village- Vill Chakrdah, Ward No. 08, P.S.- R.S., Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs. Asha Devi, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 15-07-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Gaighat P.S. Case No. 111 of 2025 dated 21.04.2025 registered for the offences punishable u/ss 30(a), 45 (1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 227.5 litres of Eskuf cough syrup was recovered from the Swift Dezire Car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not the owner of the seized vehicle. The petitioner is the driver of the seized vehicle and he has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has



two criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 22.04.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the petitioner is the driver of the seized vehicle from where the said recovery has been made. Learned counsel has further submitted that the seized contraband is commercial quantity i.e. 227.5 litres of Eskuf cough syrup containing codeine. It is further submitted that this case comes under the NDPS Act and Drugs and Cosmetics Act as per section 80 of the NDPS Act. Learned APP for the State also 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". The petitioner had no valid authorization for keeping the same.

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 recovery of commercial quantity of cough syrup containing codeine from the conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Gaighat P.S. Case No. 111 of 2025 pending in the court of learned Exclusive Special Judge Excise- III, Muzaffarpur.

9. Learned court below is directed to conclude the trial of the petitioner at the earliest.

10. The application stands rejected.

(Chandra Prakash Singh, J)

khushbu/-

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

