

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44638 of 2025

Arising Out of PS. Case No.-93 Year-2025 Thana- GAMAHARIYA District- Madhepura

Nanku Kumar son of Chhotelal Sharma village- Kataiya, Ward no. 6, Ps-
Singheshwar, Dist- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Kanhiya Kishor, APP

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

ORAL ORDER

6 04-12-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with Gamahariya P.S. Case No. 93 of 2025 instituted for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. The prosecution case, in brief, is that on 11.05.2025, the police intercepted a CNG three-wheeler near *Singeshwar* and apprehended two persons namely Anil Kumar and Nankhu Kumar (petitioner) and on search of the vehicle, 30 litres of codeine cough syrup kept in three cartons were recovered.

4. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case. No



incriminating article has been recovered from the conscious possession of the petitioner. It is submitted that name of the petitioner has surfaced in this case as being passenger of the vehicle in question and he was oblivious of the fact that illicit codeine cough syrup was laden in the vehicle. Charge-sheet has been submitted in this case under Section 30(a) of the Excise Act. The petitioner is in custody since 12.05.2025 and has no criminal antecedent. There is no compliance of Section 103 of the Bharatiya Nagarika Suraksha Sanhita, 2023.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned counsel further submitted that police, after completion of investigation, submitted charge-sheet under Section 30(a) of the Bihar Prohibition and Excise Act and not under the provision of NDPS Act. Learned APP further submitted that vide gazette notification dated 18.10.2016, the Government of Bihar has notified that all medicines or medical preparations containing (i) Codeine and (ii) Dextropropoxyphene as ingredients be treated to be intoxicants for the purposes of the Bihar Prohibition and Excise Act, 2016.

6. From a perusal of the records, it appears that the present case has been instituted under Section 30(a) of the



Excise Act, and upon completion of investigation, the police have submitted charge sheet under the same provision. Therefore, the provisions of the NDPS Act are neither attracted nor applicable to the present case.

7. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner be released on bail, *after framing of charge, if not already framed*, on furnishing bail bonds of Rs. 15,000/- (Fifteen thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Gamahariya P.S. Case No. 93 of 2025, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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