

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46590 of 2025

Arising Out of PS. Case No.-137 Year-2025 Thana- SONBERSA District- Sitamarhi

=====

Anil Mahto @ Anil Kumar, aged about 36 years, Male, S/o Anand Lal Mahto
@ Nand Lal Mahto, R/o Village - Sonbarsa, Ward No.1, P.S.- Sonbarsa,
District-Sitamarhi (Bihar)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner : Mr. Shailendra Kumar Singh, Advocate
For the Opposite Party : Mr. Binod Kumar, A.P.P.

=====

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

ORAL ORDER

6 10-11-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Sonbarsa
P.S. Case No. 137 of 2025 dated 14.04.2025 registered for the
offence punishable under Section 21 (c) of the N.D.P.S. Act.

3. As per the prosecution case, Codeine Phosphate
containing Onerex Cough Syrup-31 pieces, Codeine Phosphate
containing Codedyl-T Cough Syrup-09 pieces and Codeine
Phosphate containing Korcof-C Cough Syrup-09 pieces, total
Codeine containing Cough Syrup-49 pieces, each bottle-100 ML,
total 4.9 litres was recovered from 'Jai Chameli Mai Shoe
Centre' of the petitioner and Codeine Phosphate containing
Codedyl-T Cough Syrup-82 pieces, Codeine Phosphate



containing Onerex Cough Syrup-35 pieces total Codeine containing Cough Syrup-117 pieces each bottle 100 ML., total 11.7 litres was recovered from the room which is situated on the roof of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case. No incriminating article has been recovered from the possession of the petitioner. It is further submitted that some of the recovery of cough syrup were made from the room adjacent to the stairs of two stories building of the petitioner which is a joint family property. There is no statutory compliance under the provisions of the N.D.P.S. Act. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail application. The petitioner is in custody in this case since 15.04.2025.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail petition of the petitioner and has further submitted that the seized contraband is commercial quantity i.e., total 16.6 of Codeine Syrup and the petitioner has no any valid authorization for keeping the same. It is further submitted that this case comes under the N.D.P.S. Act and Drugs and Cosmetics Act as per Section 80 of the N.D.P.S. Act. Learned



A.P.P. for the State has 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 in which it has been held that "weight of entire materials/mixture alongwith neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity". It is further submitted that codeine is mentioned in the Entry No. 28 of the N.D.P.S. Act. Methyle Morphine is commonly known as codeine. The act of the petitioner amounts to clear violation of Section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic substance except medical and scientific purposes.

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 and finding substance in the contention of the learned A.P.P. for the State as well the recovery of commercial quantity from room and shoe shop of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Sonbarsa P.S. Case No. 137 of 2025, pending in the court of learned Special Judge, Sitamarhi.

9. The application stands rejected.

10. The learned trial court is directed to expedite the trial of the petitioner and conclude the same at the earliest.

(Chandra Prakash Singh, J)

U.K./-

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

