

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50420 of 2025**

Arising Out of PS. Case No.-354 Year-2024 Thana- SAUR BAZAR District- Saharsa

HARISHANKAR @ ADITYA @ ADY @ ADITYA ANAND S/O  
BIJENDRA YADAV @ VIJENDRA KUMAR YADAV RESIDENT OF  
VILLAGE- SAMHAURA, WARD NO 15, PS- SONBARSARAJ,  
DISTRICT- SAHARSA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Diwakar Prasad Singh

For the Opposite Party/s : Mr. Umanath Mishra

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

ORAL ORDER

2      29-07-2025                      Heard learned counsel for the petitioner and learned  
A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Saur Bazar P.S. Case No. 354 of 2024 dated 25.05.2024 registered for the offence/s punishable u/ss 279 and 336 of the IPC and sections 30(a) and 41 of the Bihar Prohibition and Excise Act and section 139 of the Indian Electricity Act.

3. As per the prosecution case, total 46.5 litres of Codeine cough Syrup (WISCOF) and other documents were recovered from the accidental Creta car.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. Learned counsel has further submitted that the petitioner is neither the owner nor the driver of the said vehicle. The petitioner has eight criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 02.06.2025

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted that the Aadhar Card, driving license and ATM card of the petitioner were recovered from the said car. The seized contraband is commercial quantity i.e. 46.5 litres of codeine syrup. It is further submitted that as per entry 28 of the list of NDPS Act, small quantity of codeine as defined is 10 gram and commercial quantity of codeine as defined is 1000 gram. The accused at this stage cannot be presumed to be 'not guilty' of the offence that he is charged with. 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 any valid authorization for keeping the said contraband. The said offence is related to the offence of NDPS Act and Drug and Cosmetic Act.

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 codeine syrup from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

**(Chandra Prakash Singh, J)**

guddukr/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

