

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49732 of 2025

Arising Out of PS. Case No.-70 Year-2025 Thana- DARBHANGA District- Darbhanga

Md. Muquaddar S/o- Md. Sikandar Village - Lalbag, P.S. -Darbhanga Town,
Dist. - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Adv.

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

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

ORAL ORDER

4 02-09-2025 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 Darbhanga Town P.S. Case No. 70/2025 dated 29.05.2025 registered for the offences punishable under Sections 8(c), 21(c), 29 and 35 of the N.D.P.S. Act.

3. As per the prosecution case, total 100 tablets of Pyeevon Spas Plus i.e. 39.5 gm and two syrup of Onerex containing 100 ml each were recovered from the possession of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. It is further submitted that the seized contraband is less than the commercial quantity i.e. 39.5 gm which contains Dicyclomine (20mg), Paracetamol (325mg) and Tramadol (50mg) i.e., 39.5 gm. Tramadol falls under the purview of NDPS Act, 1985 (S.No. 238 ZH of NDPS Act) of which small quantity is 5 gm and commercial quantity is 250 gm and onerex i.e 0.2 kg which contains codeine and falls under the purview of NDPS Act, 1985, S.No. 28 of which small quantity is 10 gm and commercial quantity is 1 kg. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody in this case since 10.04.2025. The co-accused person has already been granted regular bail by the Co-ordinate Bench of this Court vide order dated 16.07.2025 passed in Cr. Misc. No. 43852 of 2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the said recovery has been made from the possession of the petitioner. The petitioner has no any valid authorization for keeping the same. Learned counsel has further 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 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 as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Darbhanga in connection with Darbhanga Town P.S. Case No. 70/2025, with the condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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