

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48666 of 2025

Arising Out of PS. Case No.-128 Year-2025 Thana- SONBERSA District- Sitamarhi

Mohammad Seraj @ Md. Seraz @ Md. Siraj S/o Gani Mohmad R/o village-
Parsauni, Mailavar, P.S- Parsauni, Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Zaki Haider, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar Sharma, APP

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

ORAL ORDER

2 04-08-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
Sonbarsa P.S. case No. 128 of 2025 instituted for the offences
under Sections 21(c) of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
240 bottles (100 ml each) of Onerex cough syrup from the
Tempo bearing Regd. No. BR30PA5171 in this case.

4. Learned counsel for the petitioner submitted that the
petitioner is innocent and has falsely been implicated in the
present case. Petitioner is in custody since 05.04.2025 and has
no criminal antecedent. There is no allegation of tampering of
witnesses alleged against the petitioner. Nothing incriminating



has been recovered from the conscious possession of the petitioner. The petitioner is the driver of the alleged Tempo but, was not aware of the contraband being kept in the same. There is no compliance of Section 42 and 50 of the N.D.P.S. Act. There is also non-compliance of Section 103 of the B.N.S.S.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP submits that the recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Learned APP has further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272 (Hira Singh and another vs. Union of India and another)** in which the Hon'ble Apex Court held that in case of seizure of mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by way of offending drug while determining the "small or commercial quantity" of narcotic drugs or psychotropic substance.

6. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S.



Act, this Court is not inclined to grant bail to the petitioner.

7. The prayer for bail of the petitioner, above named, is accordingly rejected with a direction to the court below to expedite the trial and conclude the same expeditiously.

(Rudra Prakash Mishra, J)

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