

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50539 of 2025**

Arising Out of PS. Case No.-40 Year-2025 Thana- EXCISE GOGRI District- Khagaria

Pankaj Sahni Son of Ramdeo Sahni Resident of Village- Dumarighat Ward  
No.- 2, P.S.- Beldaru, Distt.- Khagaria, Bihar

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Shailendra Kumar Singh

For the Opposite Party/s : Mr.Sangeeta Sharma

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

ORAL ORDER

2      30-07-2025                      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 Gogir Excise P.S. Case No. 40/2025 dated 13.04.2025 registered for the offences punishable u/s 30(a) & (f) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 6.400 litres of codeine Phosphate and Triprolodine HCL Syrup, RTX-Scen cough syrup was recovered from the hut-like tea shop of the petitioner.

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. The petitioner has no concern with the alleged recovery. The petitioner has one antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 14.04.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e. total 6.400 litres of codeine Phosphate and Triprolodine HCL Syrup, RTX-Scen cough syrup containing codeine. It is further submitted that this case comes under the NDPS Act and Drugs and Cosmetics Act as per section 80 of the NDPS Act. The petitioner has no valid authorization for keeping the said contraband. 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".

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 material available on the record, I am not inclined to enlarge the petitioner on bail.

9. This application is rejected and learned trial court is directed to expedite the trial and conclude the same at the earliest.

**(Chandra Prakash Singh, J)**

atul/-

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

