

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49329 of 2025

Arising Out of PS. Case No.-59 Year-2025 Thana- JOGBANI District- Araria

Umar Faruque @ Md. Umar Faruque S/o Md. Hasim R/o Village- Amauna,
Ward No. 20, P.S.- Jogbani, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dheeraj Kumar, Advocate
		Mr. Rabindra Kumar Priyadarshi, Advocate
For the Opposite Party/s :		Mr. Choubey Jawahar, APP

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

ORAL ORDER

3 25-09-2025 Heard Mr. Dheeraj Kumar, learned counsel for the
petitioner and Mr. Choubey Jawahar, learned APP for the State.

2. The petitioner seeks bail in connection with Jogbani
P.S. Case No. 59 of 2025, instituted for the offences punishable
under Sections 21(c) of the NDPS Act.

3. Prosecution allegation, in short, is that there is
recovery of total 1454 bottles of Eskuf Cough Syrup and 4200
Nitrazepam Tablets IP 10mg from the medicine shop and house
of the petitioner.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. No incriminating material has been recovered from
the conscious possession of the petitioner. Learned counsel for



the petitioner further submits that the petitioner has got no concern with the alleged recovery of cough syrup and tablets. The petitioner is the proprietor of that medical shop and the license is valid upto 2026. However, total amount of codeine in the cough syrup is 290.8 gram which is below the commercial quantity and the tablets contain 42 gm of Nitrazepam substance which also less than commercial quantity. The petitioner is in custody since 27.05.2025 and has got no criminal antecedent. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. has also filed a counter affidavit in the matter and submits that the total recovery of 145.4 liters of codeine containing cough syrup is a psychotropic substance which is more than commercial quantity of 1 Kg and the tablets contain 42 gm of Nitrazepam substance which also less than commercial quantity. It is next submitted that the recovered contraband, i.e. the codeine containing cough syrup is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Learned A.P.P. has further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272 (Hira**



Singh and Another versus 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 is rejected.

(Rudra Prakash Mishra, J)

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