

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49327 of 2025

Arising Out of PS. Case No.-113 Year-2025 Thana- HARLAKHI District- Madhubani

Ram Pukar Mukhiya @ Ram Pukar Son of Ram Shobhit Mukhiya Village-
Pipraun PS- Harlakhi District -Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rana Bhupendra Narayan Singh, 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. Rana Bhupendra Narayan Singh, learned
counsel for the petitioner and Mr. Choubey Jawahar, learned
APP for the State.

2. The petitioner seeks bail in connection with
Harlakhi P.S. Case No. 113 of 2025 instituted for the offences
under Sections 20, 22 of the NDPS Act.

3. Prosecution allegation, in short, is that total 49
bottles of cough syrup bottles containing codeine, 150
Nitrazepam tablets, 200 grams charas and 100 grams ganja has
been recovered in this case.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. The petitioner is in custody since 10.05.2025 and



has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits that the contraband recovered are less than commercial quantity. He further submits that there is no compliance of Sections 42 and 50 of the NDPS 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. submits that he has filed counter-affidavit and in paragraph no. 7 of the said counter-affidavit he has specified the amount of contraband seized. He further submits that recovery of contraband excluding the cough syrup is less than small quantity. He further contends that the recovery of cough syrup containing codeine 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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