

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49875 of 2025

Arising Out of PS. Case No.-188 Year-2025 Thana- LAHERIYASARAI District- Darbhanga

MD. BARE @ MD. NASIM S/O MD. ABBASH Resident of Village-
Khajasarai, Police Station- Leheriasarai, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Kumar Jha, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

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

ORAL ORDER

3 14-10-2025 Heard learned counsel for the petitioner, learned
APP for the State and perused the case diary.

2. The petitioner seeks bail in connection with
Laheriasarai (L.Sarai) P.S. Case No. 188 of 2025, instituted for
the offences punishable under Sections 21(c) and 29 of the
NDPS Act.

3. Prosecution allegation, in short, is that there is
recovery of 60 bottles of Onerex cough syrup (100 ml. each)
from the 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. Charge-sheet has been submitted in this case. No
incriminating material has been recovered from the conscious
possession of the petitioner. Learned counsel for the petitioner



also submits that the petitioner was not present at the place of occurrence. The alleged recovery has been made from the house of co-accused Munni Khatoon and the petitioner is the son of co-accused person. The petitioner is in custody since 17.04.2025 and has got six criminal antecedents in which he is on bail in five cases. 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 and submits that total 6 liters cough syrup has been recovered in this case. Learned A.P.P. submits that recovered contraband 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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