

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51740 of 2025

Arising Out of PS. Case No.-88 Year-2025 Thana- BALIYA District- Begusarai

Hare Ram Sah S/o Late Sahdeo Sah @ Late Sahdev Sah Resident of Village -
Mathurapura, Ward No. - 6, P.S. - Ballia (Balliya), District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

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

ORAL ORDER

3 12-11-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with NDPS
Case No. 11 of 2025, Ballia (Balliya) P.S. Case No. 88 of 2025
instituted for the offences under Sections 30(a), 32(2) of the
Bihar Prohibition and Excise Act as also under 8(a)(c), 21 of the
N.D.P.S. Act.

3. Prosecution case, in short, is that on the alleged date
and time during a police raid led by ASI Sanjiv Kumar against
illegal liquor traders, the team received secret information and
raided the house of this petitioner, where 15.840 litres of foreign
liquor and 35 bottles of codeine cough syrup (total 3.5 litres)
were recovered, and the accused was apprehended on the spot.



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 18.03.2025 and has got no criminal antecedent. Charge-sheet has been submitted in this case. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits that no incriminating article has been recovered from the conscious possession of the petitioner. He further contends that not a single independent witness has turned up to support the prosecution case. There is no compliance of Section 42 and 52 of the NDPS Act as also of Section 103 of the Bharatiya Nagarika Suraksha Sanhita, 2023.

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 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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