

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58407 of 2025

Arising Out of PS. Case No.-133 Year-2025 Thana- SAUR BAZAR District- Saharsa

1. Deepak @ Deepak Kumar S/O Chandeshwari Yadav R/O Village- Janki Nagar Itahri, Ward No. 13, P.S.- Janki Nagar, Distt.- Purnea
2. Akhilesh Kumar @ Abresh Kumar S/O Vijan Yadav R/O Vill.- Khari, Ward No.- 10, P.S.- Murliganj, Dist.- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 60702 of 2025

Arising Out of PS. Case No.-133 Year-2025 Thana- SAUR BAZAR District- Saharsa

Avinash Kumar @ Baua S/o Subhash Yadav @ Subhash Chandra Yadav R/o Village- Kadhaiya, P.S.- Sour Bazar, Dist.- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 58407 of 2025)

For the Petitioner/s : Mr. Rajiv Kumar Singh, Advocate

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

(In CRIMINAL MISCELLANEOUS No. 60702 of 2025)

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Ms. Pronoti Singh, APP

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

ORAL ORDER

5 04-12-2025 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners seek bail in connection with Saur Bazar
P.S. Case No. 133 of 2025 instituted for the offences punishable
under Sections 30(a) & 41 of the Bihar Prohibition and Excise



Act.

3. The prosecution case, in brief, is that on 29.04.2025, during special patrolling the police received information about unloading of banned Corex at the house of Avinash Kumar @ Boua (petitioner of Cr. Misc. No. 60702 of 2025), and on reaching there two accused (petitioners of Cr. Misc. No. 58407 of 2025) were apprehended with a Baleno vehicle. On search, 1800 bottles of codeine cough syrup (100 ml each) total 180 litres were recovered from the vehicle, and further 400 bottles of codeine cough syrup (100 ml each) total 40 litres were recovered from the house of Avinash Kumar @ Boua (petitioner of Cr. Misc. No. 60702 of 2025).

4. Learned counsel for the petitioners submitted that the petitioners have falsely been implicated in the present case. No incriminating article has been recovered from the conscious possession of the petitioners. The petitioners have got no concern with the alleged recovery of codeine cough syrup. Petitioners are not the owner of the car in question and they were passerby and have become the victim of circumstance. So far as recovery from the house of petitioner, namely, Avinash Kumar is concerned, the same is joint property, where other family members also reside. Charge-sheet has been submitted in



this case under Sections 30(a) & 41 of the Bihar Prohibition and Excise Act. The petitioners of Cr. Misc. No. 58407 of 2025 are in custody since 30.04.2025 and have one criminal antecedent, whereas the petitioner of Cr. Misc. No. 60702 of 2025 are in custody since 03.07.2025 and has one criminal antecedent. There is no compliance of Section 103 of the Bharatiya Nagarika Suraksha Sanhita, 2023.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioners. Learned counsel further submitted that police, after completion of investigation, submitted charge-sheet under Sections 30(a) & 41 of the Bihar Prohibition and Excise Act and not under the provision of NDPS Act. Learned APP further submitted that vide gazette notification dated 18.10.2016, the Government of Bihar has notified that all medicines or medical preparations containing (i) Codeine and (ii) Dextropropoxyphene as ingredients be treated to be intoxicants for the purposes of the Bihar Prohibition and Excise Act, 2016.

6. From a perusal of the records, it appears that the present case has been instituted under Sections 30(a) & 41 of the Excise Act, and upon completion of investigation, the police have submitted charge sheet under the same provision. Therefore, the



provisions of the NDPS Act are neither attracted nor applicable to the present case.

7. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the petitioners, this Court is inclined to grant bail to the petitioners.

8. Let the petitioners be released on bail, *after framing of charge, if not already framed*, on furnishing bail bonds of Rs. 15,000/- (Fifteen thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Saur Bazar P.S. Case No. 133 of 2025, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioners.

(II) The petitioners shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioners.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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