

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65520 of 2024

Arising Out of PS. Case No.-19 Year-2024 Thana- Excise P.S. District- Patna

Rajesh Turi Son of Dhaneshwar Turi R/o Village- Jagjivan Nagar Nutandi,
P.S.- Saraidhela, District- Dhanbad (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Devika Rani, Advocate

For the Opposite Party/s : Mr. Ajay Kumar No. 2, A.PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

7 14-02-2025 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Special Case No. 142/2024 arising out of Masaurhi Excise P.S. Case No. 19/2024 dated 09.01.2024 registered for the offences punishable u/s 30(a), 30(f), 32(3) and 56(b) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 110 litres of ONREX cough syrup was recovered from the vehicle which was being driven by the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no knowledge about the seized contraband. Learned counsel has submitted that the seizure list has not been prepared in accordance with law. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 10.01.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e. 110 litres of ONREX cough syrup containing codeine. It is further submitted that this case comes under the NDPS Act and Drugs and Cosmetics Act as per section 80 of the NDPS Act. As per the report of lower court concerned vide letter no. 18 dated 23.01.2025, out of four witnesses two witnesses have already been examined. Learned APP for the State also placed reliance on the judgment in the case of ***Hira Singh and Anr. Vs. Union of India and Anr, (2020)20 Supreme Court Cases 272*** of Hon'ble Apex Court has held that "weight of entire materials/ mixture along with neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity". Earlier the bail application of the petitioner has been rejected by this Court vide order dated



15.07.2024 passed in Cr. Misc. No.25081/2024.

6. As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with :-

(i) There are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) He is not likely to commit any offence while on bail.

7. If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case. The Hon'ble Supreme Court in the case of ***Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC OnLine SC 891*** has held that “*The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.*”

8. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity i.e. 110 litres of ONREX cough syrup containing codeine, this Court is not inclined to grant bail to the petitioner and the same



is rejected in connection with Special Case No. 142/2024 arising out of Masaurhi Excise P.S. Case No. 19/2024, pending in the court of learned Exclusive Special Excise Judge-II, Patna.

9. This application stands rejected.

(Chandra Prakash Singh, J)

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