

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69671 of 2025**

Arising Out of PS. Case No.-68 Year-2025 Thana- ANGARGHAT District- Samastipur

Bittu Kumar Son of Late Hari Kishore Poddar Resident Of Village And Ps-
Sonbarsa District -Saharsa At Present Mohalla -Batraha Ward No 23 Ps And
District -Saharsa

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Adv.

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

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

ORAL ORDER

2 28-11-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Angarghat P.S. Case No. 68 of 2025 registered for the offences punishable u/ss 28, 27(b) (ii), 27(d) of the Drug and Cosmetics Act and Sections 8, 21(c) and 22(b) of the NDPS Act.

3. As per the prosecution case, total 974 bottles of *Wiscodin Cough Syrup*, each containing 100 ml, were recovered from the Swift Dzire vehicle which was being driven by the petitioner, Bittu Kumar.

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



this case. The petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 19.06.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband has been recovered from the said vehicle which was being driven by the petitioner. Learned counsel has further submitted that the seized contraband is commercial quantity i.e. total 974 bottles of *Wiscodin Cough Syrup*, each containing 100 ml amounting to 97.4 litres. The petitioner had no valid authorization for keeping the same. 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. 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".

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 of cough syrup containing codeine from the conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Angarghat P.S. Case No. 68 of 2025 pending in the court of learned Court



of Principal District & Sessions Judge, Samastipur.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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