

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62763 of 2025

Arising Out of PS. Case No.-228 Year-2025 Thana- SAUR BAZAR District- Saharsa

Santosh Kumar S/o Prakash Sah R/o Village- Sant Nagar Saharsa, W/No. 18,
P.S.- Saharsa, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 71102 of 2025

Arising Out of PS. Case No.-228 Year-2025 Thana- SAUR BAZAR District- Saharsa

Sanjay Kumar S/o Sita Ram Yadav R/o Village- Naya Bazar, Ward No. 12,
P.S.- Saharsa Sadar, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 62763 of 2025)
For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate
For the Opposite Party/s : Ms. Sharda Kumari, APP
(In CRIMINAL MISCELLANEOUS No. 71102 of 2025)
For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate
For the Opposite Party/s : Ms. Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 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. 228 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 receiving secret information, the police intercepted a blue Baleno car bearing Reg. No. BR34V-8055 and apprehended Santosh Kumar (petitioner of Cr. Misc. No. 62763 of 2025) and Sanjay Kumar (petitioner of Cr. Misc. No. 71102 of 2025), recovering Wiscodein cough syrup totaling 113 litres from the vehicle's dicky.

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. It is submitted that name of the petitioners have surfaced in this case as being driver and passenger of the vehicle in question and they were oblivious of the fact that illicit codeine cough syrup was laden in the vehicle. Charge-sheet has been submitted in this case under Sections 30(a) & 41 of the Bihar Prohibition and Excise Act. The petitioners are in custody since 16.07.2025 and have one criminal antecedents each. 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. 228 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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