

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87569 of 2024

Arising Out of PS. Case No.-200 Year-2024 Thana- RAXAUL District- East Champaran

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Om Prakash Gupta Son of Kaushal Kishor @ Rakesh Sharraf Resident of
village - Machalibajar, Ps- Raxaul, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv.
For the Opposite Party/s : Mr. Sharda Kumari, APP

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

ORAL ORDER

2 20-02-2025 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner petitioner is apprehending his arrest in a case in connection with Raxaul P.S. Case No. 200 of 2024 dated 09.06.2024 registered for the offences u/s 414 of the Indian Penal Code and sections 21(c), 23(c) and 29 of the NDPS Act.

3. As per the prosecution case, total 36 litres *onerex cough syrup* kept in a sack was recovered from the motorcycle which was being driven by the co-accused, Rohit Kumar who disclosed that the said codeine syrup belongs to the petitioner and the co-accused, Md. Iqbal, Akhilesh Gupta,



Md. Rizwan Alam and Rohit Kumar.

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 is not the owner of the said vehicle. The name of the petitioner has transpired in this case in the confessional statement of the co-accused, Rohit Kumar. The petitioner has no concern with the seized narcotic drugs and psychotropic substance. The petitioner has one criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the seized contraband is of commercial quantity. It is further submitted that the petitioner had no valid authorization for keeping the said contraband. Learned APP for the State has 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.

8. The Hon'ble Supreme Court in the case of *Anarul SK Vs. The State of West Bengal*, passed in *S.L.A (Crl.) No(s). 12621/2024, arising out of impugned final judgment and order dated 08.07.2024 in CRM (NDPS) No. 943/2024* passed by the High Court at Calcutta has held that "The grant of anticipatory bail in cases involving Narcotic Drugs and Psychotropic Substances (NDPS) is a very serious issue. We, therefore, direct the State to consider as to whether it proposes to file an application for the cancellation of bail granted to the other co-accused."

9. Considering the aforesaid facts and circumstances of the case as well as the recovery of the commercial quantity



from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

10. The application stands rejected.

(Chandra Prakash Singh, J)

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