

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12229 of 2026

Arising Out of PS. Case No.-64 Year-2025 Thana- HARLAKHI District- Madhubani

Giban Potal @ Giban Dotal @ Giban Patel Son of Ved Prakash Dotal @ Ved
Prakash Potal Resident of village - Tinpatan - 10, Sindhuli, Janakpur (Nepal).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajkumar Mishra, Advocate

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

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

ORAL ORDER

2 23-02-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Harlakhi P.S. Case No. 64 of 2025, instituted for the offences punishable under Sections 20 and 22 of the NDPS Act.

3. Prosecution allegation, in short, is that there is recovery of 40 bottles of Codeine Phosphate & Triprolidine Hydrochloride cough syrup, Onerex (each of 100 ml) in this case.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for



the petitioner also submits that no recovery of cough syrup has been made from the possession of the petitioner rather the alleged recovery has been made from the vehicle and the petitioner was driver of that vehicle in question. The petitioner is in custody since 20.03.2025 and has got no criminal antecedent. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that the total recovery of contraband is 04 liters and the same is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Learned A.P.P. has further relied upon a case of Hon'ble Supreme Court since reported in **(2020) 20 SCC 272 (Hira Singh and Another versus Union of India and Another)** in which the Hon'ble Apex Court held that in case of seizure of mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by way of offending drug while determining the "small or commercial quantity" of narcotic drugs or psychotropic substance.



6. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to the petitioner.

7. The prayer is rejected.

(Rudra Prakash Mishra, J)

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