

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33234 of 2026

Arising Out of PS. Case No.-10 Year-2026 Thana- PASRAHA District- Khagaria

Santosh Kumar son of Nathu Ray Resident Of Village- Chandpura, Ward no. 4, ps- Raghobpur, Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Seema Kumari, Adv.
For the Opposite Party/s : Mr. Mohammed Arif, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

3 24-06-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with N.D.P.S.
Spl. Case No. 04 of 2026 arising out of Pasraha PS Case No. 10
of 2026 instituted for the offences under Sections 111 of the
BNS and 21(c) of the N.D.P.S. Act.

3. The allegation is that about 754 litres of codeine
cough syrup was recovered from the pick-up van and the
petitioner is said to be the occupant of the said vehicle.

4. Learned counsel for the petitioner submit that the
petitioner is innocent and have falsely been implicated in the
present case and no incriminating article has been recovered
from the conscious possession of the petitioner. The alleged
recovery is from a vehicle. The petitioner is in custody



since 28.06.2025 and has clean antecedent.

5. Learned counsel for the petitioner has submitted that the Central Government has issued Notification No. S.O. 826(E) dated 14.11.1985 which is given hereunder:-

“S.O. 826(E). - In exercise of the powers conferred by sub-clause (b) of clause (xi) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Central Government hereby declares the following narcotic substances and preparations to be manufactured drugs, namely:-

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35. Methyl morphine (commonly known as 'Codeine') and Ethyle morphine and their salts (including Dionine), all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100 milligrams of the drug per dosage unit, and with a concentration of not more than 2.5% in undivided preparations and which have been established in Therapeutic practice.

xxx”

6. Learned APP appearing for the State has vehemently opposed the application for bail and has submitted that in the case of ***Hira Singh and Anr. V. Union of India and Anr.***, the Hon’ble Supreme Court has held that entire non-toxic material which is mixed with the contraband will be considered as the contraband and as such, the quantity which has been recovered from the possession of this petitioner is commercial quantity.



7. In this regard, it is worth mentioning that in view of Section 2(d) of NDPS Act, the drug itself is not a narcotic drug and therefore there is no jurisdictional basis for the case at hand and hence, this Court would not have a reason to go into the questions of quantities. Also, this Court is of the view that the decision of ***Hira Singh*** (supra) loses its relevance and the same is meant for situations where the items are narcotic. The petitioner also has clean antecedent, therefore, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge NDPS Act, Purnea/concerned Court in connection with Sarsi P.S. Case No. 133 of 2025 (Special NDPS Case No. 292 of 2025).

9. It is made clear that any observation made herein is *prima facie* in nature and limited solely for the purpose of adjudication of the present bail application. Such observations shall not be construed as an expression on the merits of the case and shall not influence the trial or any other proceedings in any manner.



(Ansul, J)

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