

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39247 of 2026

Arising Out of PS. Case No.-76 Year-2026 Thana- BARGAINIA District- Sitamarhi

Mohammad Kudus @ Md. Kudus son of Md. Sagir Ansari Resident of
Village - Gaur, Ward No. 5, P.S. - Gaur, District - Rautahat, Nepal

.. ... Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through the S.S.B. Sitamarhi bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Jha, Adv.
For the Opposite Party/s : Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

2 17-06-2026 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner seeks bail in Bairstania P.S. Case No.
76 of 2026 registered under Section 21 (c) of NDPS Act.

3. The allegation is that the petitioner was caught with
28 strips of Nitrazepam Tablet and 21 bottles of 100 Ml Onerex
cough syrup (Total 2.1 liters).

4. Learned counsel for the petitioner relies upon the
order passed in Cr. Misc. No. 14466 of 2026 where it has been
held that in view of Section 2(d) of the NDPS Act, the drug
itself is not narcotic drug then there is no jurisdictional basis for
the case and the Court would not have a reason to go into the
question of quantities. He further submits that the petitioner has
no criminal antecedent and is in custody since 13.03.2026.



5. Learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid circumstances of the case and the fact that the petitioner has no criminal antecedent and is in custody since 13.03.2026, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner, above named, 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 Sessions Judge cum Special Judge (NDPS Act), Sitamarhi, in connection with Bairgania P.S. Case No. 76 of 2026.

8. 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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