

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40186 of 2026

Arising Out of PS. Case No.-119 Year-2026 Thana- Chitragupta Nagar District- Patna

Chandan Kumar, S/o Late Ramanand Prasad, Resident of village- House No. 04, Ganga nagar, Ganpati Apartment, Kamta Check, Near Shemford School, P.S- Gopalpur, District -Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-06-2026 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

2. The accused/petitioner is named in the FIR and apprehending his arrest in connection with Chitragupta Nagar P.S. Case No.119 of 2026 registered under Section 278 of the Bhartiya Nyaya Sanihta, 2023 and Section 30(a) of the Bihar Prohibition and Excise Act.

3. Allegation against the petitioner is to have in possession of Codeine cough syrup i.e. **1533 liters.**

4. It is submitted by learned counsel appearing on behalf of the petitioner that the house from where the alleged cough syrup was recovered was under construction and it was an open place and accessible by general public. It



is submitted that the house was totally under the control of labour and mason and, therefore, recovery from aforesaid premises cannot be said to be recovered from conscious possession of this petitioner. It is pointed out that FIR in issue was not lodged under N.D.P.S. Act. It is also pointed out that as the recovery was made from an open place, the petitioner shall not be said to have any culpable mental state in view of section 35 of the N.D.P.S. Act as to import the rigors of section 37 of the N.D.P.S. Act.

5. While concluding argument, it is submitted that seizure list appears disputed as not supported by independent witnesses rather by police personnel. Explaining criminal antecedent, it is submitted that petitioner found involved in one more criminal case, in which he is on bail.

6. Learned APP opposed the prayer of anticipatory bail to the petitioner.

7. In view of aforesaid factual submissions and by taking of note of fact as alleged recovery of cough syrup *prima facie* was made from an open place i.e. under construction house of the petitioner, coupled with the fact



that FIR for recovery was not appears lodged under the provisions of N.D.P.S. Act, accordingly, the petitioner, above-named, in the event of his arrest or surrender in the court below within a period of four weeks from today, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court of learned Special Judge Excise Act-1, Patna in connection with Chitragupta Nagar P.S. Case No.119 of 2026, subject to the conditions as laid down under Section 438(2) of the CrPC/under Section 482(2) of the BNSS.

(Chandra Shekhar Jha, J.)

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