

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40850 of 2026

Arising Out of PS. Case No.-28 Year-2026 Thana- KISHANPUR District- Supaul

1. Md. Jasim S/O Md. Nijamuddin @ Nijauddin R/O Village- Sonarpatti, Ward No.02, P.S.-Simraha, District- Araria.
2. Santosh Rishidev S/O Mangal Rishidev R/O Village- Mirjapur Kothi, Ward No. 02, P.S.- Simraha, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Shadab Alam Wazdi, Advocate

For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 02-07-2026 Heard Mr. Md Shadab Alam Wazdi, learned counsel
for the petitioners and Mr. Rajiv Nayan, learned APP for the
State.

2. Petitioners seek bail, who are in custody since
01.02.2026, in connection with NDPS Case No. 25 of 2026
arising out of Kishanpur P.S. Case No. 28 of 2026, F.I.R. dated
31.01.2026 registered for the offences punishable under
Sections 8(C), 21 (C), 22 (C , 25, 29 of the N.D.P.S. Act.

3. The case relates to recovery of 160-160 sealed
bottles of codeine containing Cough Syrup total 960 bottles
marked Triprolidine Hydrochloride & Codeine Phosphate Syrup
WISCOREX Cough Syrup.



4. Learned counsel for the petitioners submits that the petitioners have clean antecedents and the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offence as alleged in the F.I.R. As per allegation in the F.I.R., 160-160 sealed bottles of codeine containing Cough Syrup total 960 bottles marked Triprolidine Hydrochloride & Codeine Phosphate Syrup WISCOREX Cough Syrup were recovered from the place of occurrence. Learned counsel for the petitioner further submits that altogether total quantity of 96 litres of Cough Syrup was recovered and as per calculation 96 litres of Cough Syrup contains 0.2% of Codeine which is not the commercial quantity so there is no embargo under Section 37 of the N.D.S.P.S. Act to enlarge the petitioner on bail. He further submits 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 miligrams 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”

5. In this case, Codeine phosphate cough syrup has been recovered and the concentration of the codeine in this drug is approximately 0.2% which is less than 2.5% as provided in the above notification so the present case does not fall under the N.D.P.S. Act which falls under the Drugs and Cosmetic Act and the police after investigation submitted chargesheet against the



petitioner and the petitioner is in custody since 01.02.2026.

6. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

7. Considering the facts and circumstances of the case and the fact that the recovered contraband is less than the commercial quantity as well as period of custody, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned A.D.J.-III, Supaul in connection with NDPS Case No. 25 of 2026 arising out of Kishanpur P.S. Case No. 28 of 2026, subject to the following conditions :-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.



(3) And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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