IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45692 of 2026

CNR No. BRHC010652952026

Arising Out of PS. Case No.-50 Year-2026 Thana- SONBERSA District- Sitamarhi

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Ashok Kumar S/o Maru Das R/o Village - Ramnagra, P.O - Sonbarsa, P.S - Kanhauli, District - Sitamarhi, Pin - 843330

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Gaurav Kumar, Advocate
Mr. Suraj Prakash, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

6 04-11-2026 Heard learned counsel for the petitioner and learned APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Sonbarsa PS Case No. 50 of 2026 instituted for the offences under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Prosecution allegation, in short, is that there is recovery of 238 bottles (100 mL each) of Onerex cough syrup containing codeine phosphate from a motorcycle driven by two persons, including the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the

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present case. The petitioner is in custody since 21.02.2026 and has got no criminal antecedent. Charge-sheet has been submitted in this case. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits that petitioner has no concern with the recovered contraband. Petitioner was merely passerby and has become the victim of the circumstances. There is no compliance of Sections 42 and 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner by referring to counter affidavit, wherein it is stated that recovered 23.8 L of codeine falls within the ambit of 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

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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)

Raj Kishore/-

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