

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46455 of 2026

Arising Out of PS. Case No.-83 Year-2025 Thana- SITAMARHI District- Sitamarhi

Kanhaiya Kumar @ Kanhai Kumar, Son of Rambharosh Sah, Resident of Village- Majorganj, Ward No. -5, P.S.- Majorganj, District- Sitamarhi, presently at village- Riga, P.S.- Riga, District- Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 29-07-2026 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 Sitamarhi P.S. Case No.83 of 2025 registered under Section 317(5) of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNS') and Sections 8/21(c) of the N.D.P.S. Act.

3. As per FIR, petitioner alleged to run away from the place of recovery leaving his motorcycle, whereas from the possession of co-accused who was with scooty, 117 pieces of linctus cough syrup each of 100 ml was seized.

4. It is submitted by learned counsel appearing for the petitioner that the cough syrup namely *linctus* was recovered from the physical possession of the apprehended



co-accused, whereas admittedly from the motorcycle which was under ride of this petitioner, nothing incriminating was recovered. It is pointed out that seizure list unable to suggest any composition of *linctus* syrup that its composition was any psychotropic substance or contraband. It is also pointed out that even FIR is not suggesting the composition of cough syrup and therefore, the lodging of FIR under NDPS Act is non-convincing in the eyes of law. It is argued that even in the case of apprehended co-accused, FSL report could not obtained within time and considering said aspect, the apprehended co-accused was granted bail.

5. Arguing further, it is submitted that the maximum allegation as per seizure list/FIR, against petitioner is of violation of the provisions/rule of Drugs and Cosmetics Act, 1940 as the cough syrup was manufactured by reputed pharmaceuticals company under valid license with approved compositions. Explaining criminal antecedent, it is submitted that petitioner found involved in one more criminal case, where he is on bail.

6. Learned APP while opposing the prayer of bail



could not disputed the factual submissions that the FIR is non-speaking about any of psychotropic substance or prohibited drugs in terms of NDPS Act, 1985.

7. In view of aforesaid factual submissions and by taking note of fact as recovery of cough syrup admittedly made from apprehended co-accused persons, where the FIR in issue no way suggest that any drugs or psychotropic substance is a composition of the seized cough syrup namely *linctus*, accordingly, the petitioner above-named, is directed to be released on bail, in the event of his arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Sitamarhi P.S. Case No.83 of 2025, 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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