

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48491 of 2025**

Arising Out of PS. Case No.-273 Year-2024 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Manoj Jha S/o- Late Jogi Jha Resident of Manikpur P.S- Mojahidpur, Dist-
Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Rajendra Kumar Jain, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 17-03-2026 Heard Mr. Rajendra Kumar Jain, learned counsel for

the petitioner and Mr. Shailendra Kumar, learned Additional

Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
21.06.2024 in connection with N.D.P.S Case No.67 of 2024
arising out of Kotwali P.S. Case No. 273 of 2024, F.I.R. dated
20.06.2024 for the offences punishable under Section 21(c),
22(c) and 25 of the Narcotics Drugs and Psychotropic Substance
Act 1985.

3. Recovery is of 1500 liters of codeine phosphate
Cough Syrup.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been



implicated in the present case merely on the basis of suspicion. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from vehicle in question and petitioner is neither the owner nor the driver of the vehicle in question. 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 :- xxxx

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. He next submits that there is non-compliance of Section 103 and 105 of BNSS and the seizure list witnesses are police personnel and the police after investigation submitted charge sheet against the petitioner and the petitioner is in custody since 21.06.2024.

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

7. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st, Bhagalpur in connection with Kotwali P.S. Case No. 273 of 2024, subject to the following conditions:-

i. Petitioner 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, 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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