

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54453 of 2025

Arising Out of PS. Case No.-139 Year-2025 Thana- SONBERSA District- Sitamarhi

Rahul Kumar S/O Bhuvaneshwar Mahto Resident Of Village- Jaynagar, Ward
No 9, P.S.- Sonbarsa, Dist.- Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Union of India Patna, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Arun Kumar Pandey, APP
For the O.P. No. 2	:	Mr. Rajesh Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 05-02-2026 Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the Union of India.

2. The petitioner apprehends arrest in Sonbarsa P.S.
Case No. 139 of 2025, registered under Sections 8m, 20(b)(ii)
(A) and 21(c) of the NDPS Act.

3. The prosecution case, in short, is that police on a
tip-of, raided the shop of the petitioner and on search, there is
recovery of total 16 bottles of cough syrup weighing 100 ml
each containing codeine phosphate, 100 pieces of white ink
correction pen and 600 grams of Ganja.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. No incriminating material has been recovered from



the conscious possession of the petitioner. Learned counsel for the petitioner also submitted that the petitioner has got no concern with the alleged recovery of the articles. It is further submitted that the shop does not belong to the petitioner from where the alleged recovery has been made. The petitioner has got two criminal antecedents. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State and learned counsel for the Union of India have vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that recovered contraband is above the 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 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 anticipatory bail to the petitioner.

7. The prayer is rejected.

(Rudra Prakash Mishra, J)

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