

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81026 of 2025

Arising Out of PS. Case No.-568 Year-2021 Thana- MOHANIYA District- Kaimur (Bhabua)

Souptik Sarkar @ Sauptik Sarkar Son of Sujit Sarkar R/o - 14/1 Old Police Line Road, Gorabazar, P.S. - Berhmpore, Dist. - Murshidabad, West Bengal - 742101. At present C/o Prasanta Kumar Das, R/o Village - Steamerghat, P.S. - Jiaganj, Dist. - Murshidabad, West Bengal - 742123.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jay Prakash Singh, Advocate

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 31-01-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Mohania PS Case No. 568 of 2021 instituted for the offences under Sections 30(a) & 41(1) of the Excise Prohibition and Excise Act and Sections 8(c), 21(c), 22 & 29 of the NDPS Act. Earlier vide order dated 24.01.2025, passed in Cr. Misc. No. 42830 of 2024, anticipatory bail of the petitioner was rejected by a Co-ordinate Bench of this Court.

3. Prosecution allegation, in short, is that the during vehicle checking, police intercepted one Mahinda pickup and on search, there is recovery of 2550 pieces of Phensedyl syrup each



containing 100 mL.

4. learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner is in custody since 17.02.2025 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. It is next submitted that nothing has been recovered from the conscious possession of the petitioner. Name of the petitioner has surfaced in this case as being owner of the vehicle in question and he had no knowledge regarding illicit contraband loaded in the vehicle. Learned counsel further submits that there is no compliance of Sections 42 and 50 of the NDPS Act. Police after completion of investigation has submitted charge sheet under Sections 8(c), 21(c), 22 & 29 of the NDPS Act.

5. Learned A.P.P. for the State has 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 bail to the petitioner.

7. The prayer is *rejected*.

8. The Trial Court is directed to expedite the trial as expeditiously as possible without any undue delay and unnecessary adjournments.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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