

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81728 of 2025

Arising Out of PS. Case No.-385 Year-2025 Thana- RAXAUL District- East Champaran

Anil Kumar Raut S/o Chhotelal Raut R/o Village - Virta Birganj, Ward No. 04, P.S - Virta Chowki, District - Parsa, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 10-03-2026 Heard Mr. Karandeep Kumar, 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 05.09.2025 in connection with Raxaul P.S. Case No. 385 of 2025, N.D.P.S. G. R. Case No. 122 of 2025, F.I.R. dated 04.09.2025 for the offences punishable under Sections 21(ii), 22(ii) and 29 of N.D.P.S. Act.

3. The prosecution case in brief is that from possession of this petitioner, altogether 18 pieces of Onerax Syrup containing 100 ML each was recovered.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. It appears from the FIR/seizure



list that 18 pieces of Onerax cough Syrup was recovered from the possession of the petitioner. There is no independent witness of the seizure list rather the witnesses are police personnel. Police has not followed Section 105 of BNSS, 2023 while making seizure. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 05.09.2025. Learned counsel for the petitioner 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:-

XXX

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 milligrams 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, Onerax 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. From bare perusal of said notification which suggest that the petitioner has only violated the Drugs and Cosmetic Act and the case of the petitioner comes under the purview of Drugs and Cosmetic Act.

6. Learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, petitioner has clean antecedent and the fact that the recovered contraband is less than the commercial quantity, 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 court of learned Sessions Judge/Special Judge, East Champaran, Motihari, in connection with Raxaul P.S. Case No. 385 of 2025, N.D.P.S. G. R. Case No. 122 of 2025, 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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