

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84151 of 2025

Arising Out of PS. Case No.-398 Year-2024 Thana- RAJAON District- Banka

M/s Ravi Medical Agency having its Registered Office at-Naugachhia Road, Sub-Health Center, Rajendra Nagar, W.No-3, Makhatakiya Part-43, Naugachhia, Bhagalpur-853 204 through its Proprietor Gautam Kumar S/o- Sri Sikandar Yadav, Residing at Marwa, Bhagalpur – 853 201.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Station House Officer, Rajoun, Banka Bihar
2. The State Drug Controller cum Chief Licensing Authority, Department of Health and Family Welfare, Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avinash Kumar, Advocate
For the State : Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 06-02-2026

Heard Mr. Avinash Kumar, learned counsel for the petitioner and Ms. Pushpa Sinha, learned APP appearing on behalf of the State.

2. The present application has been filed for quashing of the order dated 15.10.2025 passed by the learned District and Additional Sessions Judge-I-cum-Special Judge, N.D.P.S. Act, Banka in connection with Spl. N.D.P.S. Case No. 06 of 2025, arising out of Rajoun P.S. Case No. 398 of 2024 dated 21.08.2024 for the offences under Sections 21(c)/22(c)/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985.



3. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm and is engaged in sales and distribution of medicines under valid wholesale license being License No.- BR-BHR-185791 (Form-20B) and License No. -BR-BHR-185792 (Form-21B). It has been submitted that the petitioner's firm is also registered under the GST Act having GST Registration No.- 10CKPPK2430R1ZX. It has been contended that the petitioner's firm was appointed as C & F Agent by M/s Abionix Healthcare, having License No. -GJ-MEH-235259 (under Form-20B) and GJ-MEH-235260 (under Form-21B), registered office at Godown no.- 23, Vande Mataram Center, Near Ramdevpir Mandir, at Kadi, District-Mahesana, Gujarat- 382 715 and entered into an agreement being C & F Agent Agreement dated 17.07.2024 for the products with brand name RJT-SCEN Syrup and RTX-SCEN syrup in the markets of Bihar.

4. It has been submitted that M/s Abionix Healthcare, at the same time, also appointed M/s Heal and Pure Enterprises as Carrying and Forwarding Agent and entered into an agreement being C & F Agent Agreement dated 31.07.2024 for the products with brand name RJT-SCEN Syrup and RTX-SCEN syrup in the markets of Jharkhand.



5. Learned counsel for the petitioner submits that two medicines with brand name RJT-SCEN Syrup and RTX-SCEN syrup are the combination of two drugs, namely Codeine Phosphate and Triprolidine Hydrochloride. It has been submitted that M/s C.B. Healthcare situated at Himachal Pradesh has the manufacturing license for the same and the said drugs is being marketed by M/s. Abionix Healthcare. The said marketing company supplied the syrups with valid tax invoices to M/s Heal and Pure Enterprises, Jharkand and the said M/s Heal and Pure Enterprises supplied the aforementioned medicine to the petitioner's firm against tax paid invoices and e-way bills were also generated.

6. Learned counsel for the petitioner submits that it was during the course of transportation of such syrup from the C & F namely M/s Heal and Pure Enterprises to the C & F petitioner's firm, the same was intercepted and despite the fact that the driver of the vehicle showed all the requisite papers in support of the goods, the syrups were confiscated and Rajoun P.S. Case No. 398 of 2024 was registered.

7. Learned counsel for the petitioner submits that it was alleged by the prosecution that the persons, who were apprehended along with the syrups were asked to produce documents but they



did not do so and, therefore, the goods were seized and a seizure list was prepared, however, in fact, the driver had produced all the requisite documents including the tax paid purchase invoices and e-way bills but the same was not taken into consideration.

8. The learned counsel for the petitioner submits that the petitioner's firm immediately approached the concerned police officer as well as the S.P. and produced all the documents including the copy of license, GST registration certificate and the tax paid invoices and e-way bills but they showed their helplessness and took a plea that FIR has already been instituted and the medicines have been seized and, therefore, they cannot be released without the intervention of the court.

9. The learned counsel for the petitioner further submits that since there is no provision under the NDPS Act for release of the confiscated items, the petitioner preferred a Criminal Writ Petition being Cr.WJC No. 546 of 2025 before this Hon'ble Court for release of the aforesaid medicines, however, the said application was disposed of *vide* order dated 08.07.2025 with a liberty to the petitioner to move before the learned Special Judge under the NDPS Act for the release of the medicines in question which is a Schedule H drugs.



10. Learned counsel for the petitioner submits that the petitioner's firm though moved before the learned District and Additional Sessions Judge-I-cum-Special Judge, NDPS Act, Banka for the release of the goods, however, his prayer was rejected *vide* order dated 15.10.2025 on frivolous grounds and, therefore, by filing the present application the said order dated 15.10.2025 has been challenged.

11. Learned counsel for the petitioner submits that the allegations levelled in the FIR are baseless and misconceived and is completely against the law. It has been contended that the primary reason for rejection of the petitioner's application was that under the NDPS Act there is no provision for release of seized substance and moreover in terms of the Government Circular the petitioner being wholesaler is entitled to sale and purchase of Codeine syrup with a limit of 1000 bottle only whereas in the present case he has bought 12000 bottles and, therefore, the same is contrary to the Government Circular.

12. Learned counsel for the petitioner contends that as far as the first ground of rejection is concerned, the same is untenable in law as Section 36 of the NDPS Act becomes relevant which contains that the provisions of the Cr.P.C./BNSS is applicable if it is not inconsistent or contrary to the provisions of



the NDPS Act which is a special enactment. It has been submitted that in the present situation Section 451 of the Cr.P.C. provides for order for custody and disposal of property pending inquiry and trial in certain cases.

13. The learned counsel for the petitioner submits that as far as the second round of rejection is concerned, it may be noted that Entry 35 in notification titled “Manufactured Narcotics Drug” (as contained in Government of India Notification No. S.O. 826 (E) dated 14.11.1985 and S.O. 40(E) dated 21.09.1993 and S.O. No. 1431(E) dated 21.06.2011) issued in exercise of powers conferred by Sub Clause (b) of Clause (xi) of Section 2 of the NDPS Act which pertains to substance Methyl Morphine (commonly known as Codeine).

14. It has been submitted that the guidelines and direction which has been issued by the State Drug Controller, Bihar, Patna *vide* office order contained in memo no. -268(15) dated 17.02.2016 in light of the decision taken in a meeting convened under the Chairmanship of Additional Chief Secretary, Health Department. From perusal of the guidelines (supra), the C & F Agent, wholesale and Retail License holder are authorized to sale and purchase of the medicines falling under Narcotic Drugs and Psychotropic substance to the extent the quantity prescribed in



front of it. These guidelines were also circulated to the Narcotics Control Bureau, still the respondents ignoring the same, seized the medicines being supplied under valid license.

15. The learned counsel for the petitioner has relied upon the various judicial pronouncements made by various Hon'ble High Courts as well as the Hon'ble Supreme Court in the case of *State of Haryana vs. Naresh Kumar*, 1997 Cri.LJ 4702 (P&H), *Rajesh Sharma vs. Union of India and Others*, 159 (2009) DLT 559 (DB) rendered by the Hon'ble Division Bench of Hon'ble High Court as also the decision rendered by the Hon'ble Supreme Court in the case of *State of Uttaranchal vs. Rajesh Kumar Gupta*, wherein the Hon'ble Supreme Court noted that it was not in dispute that the medicines seized from the clinic of the accused therein fell within the purview of Schedules 'G' and 'H' of the Drugs and Cosmetics Act. It was also not in dispute that the same were mentioned in the Schedule to the NDPS Act, but did not find place in Schedule-I appended to the NDPS Rules and therefore the Hon'ble Supreme Court made an observation that all the drugs being Item No. 1, 2, 3, 4, 6 & 7 being allopathic drugs mentioned in Schedules G and H of the Drugs and Cosmetics Act indisputably are used for medicinal purposes and therefore ones the drugs are said to be used for medicinal purposes it cannot be



denied that they are acknowledged to be the drugs which would come within the purview of description of the expression “medicinal purposes”.

16. It has thus been submitted that since the petitioner was the C&F Agent and had valid license issued by the Drug Department, therefore, carrying such drugs did not amount to any offence under the NDPS Act and, therefore, non-release of such consignment would amount to abuse of the process of law.

17. Learned APP appearing on behalf of the State has opposed the prayer for release of the seized articles/medicines in favour of the petitioner and has referred to the counter affidavit filed stating that the authorities have admitted the fact for the Schedule ‘H’ drugs as contained in the office order which has been brought on record by way of Annexure-P-13 and also with the counter affidavit, it would appear that for a C&F/Depot the quantity is defined “*As per supply*”.

18. Having heard the learned counsel for the petitioner and the learned APP for the State and on perusal of the records, one thing is evident that the petitioner being a C&F Agent was legally holding a license and thus entitled for purchase and supply of such medicine. It has also been noted that there was no restriction upon the C&F/Depot with regard to the maximum



quantity to be purchased as it has been stated in the office order that it was “*as per supply*”.

19. In view of such facts, once the seized drugs is found to be a Schedule ‘H’ drug, the limit of the quantity cannot be defined in case of the petitioner who is admittedly the C&F Agent and, therefore, confiscation of such goods and non-release would amount to abuse of the process of law. From the judgments, which have been referred to above, by the learned counsel for the petitioner, it would be evident that a coordinate Bench of the High Court of Jabalpur had directed for release of the confiscated goods.

20. Thus, from the aforesaid discussions and taking into account the judgments rendered by the Hon’ble Supreme Court as well as the other Hon’ble High Courts, the non-release of the seized goods of the petitioner would amount to denial of his rightful claim over the seized items, which from the perusal of the office orders makes it clear that the same ought not to have been seized as the seized drugs were used for medicinal purposes and fell under Schedule ‘H’ of the Drugs and Cosmetics Rules, 1945.

21. In the result, the order dated 15.10.2025 passed by the learned District and Additional Sessions Judge-I-cum-Special Judge, N.D.P.S. Act, Banka in connection with Spl. N.D.P.S. Case No. 06 of 2025, arising out of Rajoun P.S. Case No. 398 of 2024



dated 21.08.2024 is, hereby, set aside and it is directed that the seized articles/medicines be released in favour of the petitioner’s firm.

22. The petition stands disposed of accordingly.

(Sourendra Pandey, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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