

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.88404 of 2025

Arising Out of PS. Case No.-306 Year-2025 Thana- BELDOUR District- Khagaria

Subhash Yadav S/O Late Bechan Yadav Resident of Village- Mali, P.S-
Beldaur, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Choubey Jawahar, APP

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

ORAL ORDER

3 23-02-2026 Heard Mr. Binod Kumar Sinha, learned counsel for
the petitioner, Mr. Choubey Jawahar, learned APP for the State
and perused the case diary.

2. The petitioner seeks bail in connection with Beldaur
P.S. Case No. 306 of 2025 instituted for the offences punishable
under Section 21(c) of the NDPS Act.

3. Prosecution allegation, in short, is that there is
recovery of 72 bottles of Codeine Phosphate & Triporolidine
Hydrochloride syrup wiscof cough syrup containing 100 ml
each from the semi-constructed house of the petitioner.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. Charge-sheet has been submitted in this case. No



incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner also submits that the petitioner has got no concern with the alleged recovery of the cough syrup. It is further submitted that the alleged recovery has been made from the semi-constructed house of the petitioner and not from his dwelling house. The petitioner is in custody since 13.10.2025 and has got one criminal antecedent in which he is on bail. There is no compliance of Sections 42 and 50 of the N.D.P.S. 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 of total 7.2 liters and the same 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.

(Rudra Prakash Mishra, J)

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