

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87207 of 2025

Arising Out of PS. Case No.-887 Year-2025 Thana- RAMKRISHNANAGAR District- Patna

1. Dablu Kumar @ Dabloo Kumar Son of Jairam Yadav @ Jay Ram Yadav Resident of Village - Patua, P.S.- Saharsa, District - Saharsa.
2. Ram Kumar Son of Ram Prasad Bhagat Resident of Village - Patua, P.S.- Saharsa, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

2 05-01-2026 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners have prayed for bail in connection with Ram Krishna Nagar P.S. Case No. 887 of 2025 registered for the offence punishable under Sections 8(c)/21(c), 25 and 29 of the N.D.P.S. Act.

3. The case of the prosecution is that from the white colour scorpio vehicle, altogether 360 bottles each of 100 ml wiscof cough syrup containing codeine was recovered.

4. Learned counsel appearing on behalf of the petitioners has submitted that petitioners are innocent and have



committed no offence. They have been falsely implicated in this case. They have no concern in any way with the alleged contraband rather they are standing nearby and from their possession only a mobile was recovered. Moreover, they are languishing in judicial custody since 18.10.2025.

5. Learned counsel for the petitioners has submitted 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”

6. In this case, wiscof 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.

7. Learned APP appearing for the State has vehemently the application for bail and has submitted that in the case of **Hira Singh and Anr. V. Union of India and Anr.**, the Hon'ble Supreme Court has held that entire non-toxic material which is mixed with the contraband will be considered as the contraband and as such, the quantity which has been recovered from the possession of the petitioners is commercial quantity.

8. In this regard, it is worth mentioning that in view of Section 2(d) of the N.D.P.S. Act, the drug itself is not narcotic drug then there is no jurisdictional basis for the case and the Court would not have a reason to go into the question of quantities. The Central Government has power to issue notification time to time.

9. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court is inclined to enlarge the petitioner on bail. The above named petitioners are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Sessions Judge/Special Judge(NDPS), Patna in connection with



Ram Krishna Nagar P.S. Case No. 887 of 2025.

(Ashok Kumar Pandey, J)

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