

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87953 of 2025

Arising Out of PS. Case No.-185 Year-2025 Thana- BARGAINIA District- Sitamarhi

Mahesh Prasad Kushwaha Son of Shivilal Mahto Resident of Village - Koriya
Tola, P.S.- Kalya, District - Bara, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate
For the State : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-01-2026 Heard Mr. Virendra Kumar, learned counsel for the
petitioner and Mr. Md. Fahimuddin, learned APP for the State.

2. Petitioner seeks bail, who is in custody since
05.09.2025, in connection with Bairgania P.S. Case No. 185 of
2025, F.I.R. dated 05.09.2025 registered for the offences
punishable under Sections 8(c) and 21(b) of the N.D.P.S. Act.

3. The case relates to recovery of 18 bottles each 100 ml
Onerex Cough Syrup.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has been falsely implicated
in the present case. It appears from the F.I.R. that 18 bottles each
100 ml Onerex Cough Syrup was recovered from the possession
of the petitioner. He further submits that there is non-compliance
of mandatory provisions of N.D.P.S. Act and recovery is less than



the commercial quantity and hence there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail. He further submits that the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 05.09.2025.

5. Learned Additional Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the recovery has been made from the possession of the petitioner.

6. Considering the facts and circumstances of the case and the fact that the petitioner having clean antecedent and 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/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Sitamarhi in connection with Bairgania P.S. Case No. 185 of 2025, subject to the following conditions :-

(1) 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.

(2) If the petitioner tampers with the evidence or the



witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 antecedents, 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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