

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.91769 of 2025**

Arising Out of PS. Case No.-369 Year-2024 Thana- NAANPUR District- Sitamarhi

Md. Tabrej @ Tabrej Alam S/O Md. Serajul @ Md. Sirazul R/O Vill.-
Brahmol, P.S- Nanpur, Dist- Sitamarhi, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Smiti Bharti, Advocate

For the Opposite Party/s : Mr.Md. Iftekhhar Mahmood, A.P.P.

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

ORAL ORDER

2 20-01-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Nanpur P.S. Case No. 369
of 2025, instituted for the offences under Section 21(C) of the
NDPS Act.

3. Prosecution allegation, in short, is that the 9.5 litres of
cough syrup has been recovered in this case.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. The petitioner is in custody since 07.10.2025 and has
got no criminal antecedent. There is no allegation of tampering of
witnesses alleged against the petitioner. Learned counsel further
submits the F.I.R. does not disclose the amount of codeine is an
essential ingredient of cough syrup and the possessions of the
cough syrup in itself is not an offence under NDPS Act. No
independent witness up till now supported the seizure.



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 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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