

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.540 of 2026**

Arising Out of PS. Case No.-177 Year-2025 Thana- SONBERSA District- Sitamarhi

Rajesh Kumar, Son of Shatrudhan Mahto @ Shatrudhan Rai @ Shatrughan
Mahto, Resident of Village – Sonbarsa, Ward No.- 11, P.S.- Sonbarsa, District
- Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Parmanand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 11-02-2026 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with Sonbarsa P.S. Case No.177 of 2025 registered for the
offence punishable under Section 21(C) of the Narcotic Drugs
and Psychotropic Substances Act (in short ‘NDPS Act’).

3. The accused/petitioner is named in the FIR and is
in custody since 08.06.2025.

4. As per FIR, the petitioner alleged to have in
possession of prohibited 30 pieces of Wincerex cough syrup
and 547 pieces of Aadpam, Nitrovin and Smapro Proxivan



plus tablets and capsules.

5. It is submitted by learned counsel appearing for petitioner that the alleged recovery was made from the house of this petitioner, which is a joint house and several adult family members resides together and, therefore, it cannot be said that alleged recovery was made from conscious physical possession of this petitioner. It is further submitted by learned counsel that the mandatory compliance of **Section 105 of the Bhartiya Nagrik Suraksha Sanhita (in short 'BNSS')** regarding recording of search and seizure through audio, video electronic means not appears complied with and, therefore, false implication cannot be overlooked.

6. It is further submitted that the alleged cough syrup was manufactured by leading pharmaceutical company, having prescribed compositions of codein approved by Drug Controllers and, therefore, at best, it is a case for violation of provisions as available under Drugs and Cosmetics Act. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with



the evidence. It is submitted that petitioner found involved in four criminal cases, where he is on bail.

7. Learned APP opposed the prayer for grant of bail to the petitioner.

8. In view of aforesaid factual submissions and by taking note of fact as recovery of alleged contraband not appears to be made from conscious physical possession of this petitioner, where the recording of search and seizure through audio, video electronic means in terms of **Section 105 of the BNSS** also not appears complied, coupled with the fact that investigation of this case is already completed, where petitioner remains in custody since 08.06.2025, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (N.D.P.S. Act), Sitamarhi in connection with Sonbarsa P.S. Case No.177 of 2025, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short 'CrPC')/under Section 480(3) of the Bhartiya Nagrik



Suraksha Sanhita (for short ‘BNSS’).

(Chandra Shekhar Jha, J.)

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