

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.91947 of 2025

Arising Out of PS. Case No.-218 Year-2025 Thana- MANSI District- Khagaria

Amresh Kumar Son of Sri Chand Kioshor Yadav @ Chandra Kishore Yadav
Resident of village - Ekaniya, P.S.- Mansi, District - Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

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

ORAL ORDER

2 19-01-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Mansi P.S. Case No. 218
of 2025 instituted for the offences under Sections 30(f) of the
Bihar Prohibition and Excise Act.

3. Prosecution allegation, in short, is that total 120
litres of codeine containing 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 07.09.2025 and
has got no criminal antecedent. Learned counsel further
submitted that initially the FIR was registered under the



provisions of Bihar Prohibition and Excise Act but police, after completion of investigation, have submitted charge-sheet under Sections 8(c), 21(b) of the N.D.P.S. Act. There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating article has been recovered from the conscious possession of the petitioner rather the recovery has been made from the Car. Learned counsel further submits that petitioner is neither owner nor driver of the vehicle from which the alleged recovery has been made. Petitioner has no concern with the alleged recovery. There is no compliance of Section 42 and 50 of the NDPS 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 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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