

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Dated, Saharsa, the 04th April, 2026

Present:- Dinesh Sharma, Principal District & Session Judge, Saharsa

A.B.P. No. 423/2026 (Arising out of Simri Bakhtiyarpur P.S. Case No. 53/2026)

Bittu Kumar

... Petitioner Vs State of Bihar

In the matter of :-

Bittu Kumar S/o Ramchander Yadav @ Ramchandra Yadav

Resident of Village Chandaaur, Ward No. 2, P.S. Saur Bazar, District Saharsa.

....Petitioner

Vs

State of Bihar

.....Opposite Party

Appearance :-

For the Petitioner :- Sri Abinash Kumar, Advocate

For the State :- Sri Bindeshwari Prasad Yadav, Ld. Spl. P.P.

Sl. No.	Date of proceeding	Order with the signature of the court	Office taken with
	04.05.2026	This anticipatory bail petition has been filed on behalf of the petitioner namely Bittu Kumar S/o Ramchander Yadav @ Ramchandra Yadav who is apprehending his arrest in connection with Simri Bakhtiyarpur P.S. Case No. 53/2026 registered under Sections 8, 21(c) of NDPS Act. 2. Heard the arguments of the learned counsel for the petitioner and the learned Spl. P.P. for the State. 3. It is submitted by the learned counsel for the accused petitioner that petitioner is innocent and has falsely been implicated in this case due to ill motive. It is further submitted that the petitioner bears criminal antecedent of one case in which he is on bail. It is further submitted that the alleged sections are not applicable against the petitioner. It is further submitted that nothing has been recovered from the possession of the petitioner. It is further submitted that petitioner is a man of means and there is no chance of his absconding or tampering with the evidence in this case and he is ready furnish sound sureties to the full satisfaction of the learned court. Upon these grounds, the learned counsel prays to grant anticipatory bail to the petitioner. 4. On the other hand, the learned Spl. P.P. has vehemently opposed the prayer of anticipatory bail. 5. Rival submissions considered, Record perused. 6. The prosecution case, in short as per the typed	

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report of P.S.I. Amit Kumar that a secret information was received on 13.02.2026 that a large quantity of codeine cough syrup was being brought from Simri Bakhtiyarpur in a white colour Alto Car bearing registration No. BR19X1738. The raiding team was proceeded for verification and necessary action and tried to stop the said vehicle but two persons parked the said vehicle and tried to escape from there but with the help of police team one person apprehended and another person succeeded in fleeing away from there. On query the apprehended disclosed his name as Vikram Kumar. During search of the said vehicle total 140 litres of Codeine Phosphate and Triprolidine hydrochloride Syrup (Wiscoff) has been recovered alongwith mobile of Galaxy S21 IMEI No. 357530590352626 from the possession of the apprehended person.

7. The name of the petitioner was disclosed by co-accused who was apprehended at this car. As per the allegation the petitioner was also traveling in the same Alto Car from which 140 litres of Codeine Phosphate and Triprolidine hydrochloride Syrup (Wiscoff) has been recovered. This court is well aware that the confessional statement made to the police is not admissible in the evidence. However, the police can further investigate the case based on the clues provided by the co-accused in his confessional statement made to the police. The petitioner is having criminal antecedent of one case. The co-accused Vikram Kumar has not been granted bail. However, this court has refused to extend his remand as the conditions stipulated under Section 187(2) of BNSS were not fulfilled by the police.

8. The Hon'ble High Court of Judicature at Patna in the case of **Nilendra Karan @ Nilendra Vs the State of Bihar** in Criminal Miscellaneous Case No. 54100/2025 decided on 27.08.2025 in para 32 has held that "As such, it clearly emerges from the statutory



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provisions of the NDPS Act and Rules made thereunder, that even the cough syrup containing codeine with concentration of less than 2.5% of total preparation is controlled and regulated for its possession, sale, purchase, transport, export, import etc. In this regard, Chapter-VA of the NDPS rules, 1985, containing Rules 52A to 52M provide detailed provisions, as it has been discussed above. Hence the violation of such rules in regard to Control and Regulation of the Essential Drugs is punishable under the NDPS Act. As such, if someone is found to be in possession of such drugs without authorization, he is liable to be prosecuted under the NDPS Act and not under the Drugs and Cosmetic Act, 1940."

9. Be it noted that it is not the case of the petitioner that he is having any authorization to possess the alleged cough syrup in such a huge quantity. The provision of NDPS Act shall be applicable in the instant case. The recovered quantity is commercial quantity and Section 37 of the NDPS Act is attracted.

10. To unearth the whole truth the custodial interrogation of the petitioner is required.

11. Considering the facts and circumstances, no case is made out to grant anticipatory bail to the petitioner. Resultantly the instant anticipatory bail application of the petitioner namely Bittu Kumar is hereby **rejected**.

(Dictated)

Dinesh Sharma
(Dinesh Sharma)
Principal Sessions Judge,
Saharsa
04.05.2026

Date of Judgement/Order	04.05.2026
Date of Reserving Judgement/Order	04.05.2026
Uploading Date	13-05-26
Uploaded by	Javed Haider