

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.22814 of 2025**

Arising Out of PS. Case No.-920 Year-2024 Thana- Excise P.S. District- Kaimur (Bhabua)

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M/s Varuna Integrated Logistics Pvt. Ltd. through its representative Mr. Vinay Kumar Singh @Binay K M/s Varuna Integrated Logistics Pvt. Ltd., having its registered office at Shahjahanpur Road, Shyamganj, Bareilly (Uttar Pradesh), through its authorized representative namely, Mr. Vinay Kumar Singh @ Binay Kumar Singh, aged about 47 years (Male), son of Birendra Prasad Singh, resident of a/14, Roshan Cooperative, Mourya Vihar Colony, Transport Nagar, Sampatchak, P.S.-Agamkuan, District- Patna (Bihar)- 800026

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Adv. Mr.Sanchay Srivastava, Adv. Mrs. Sonali Priya, Adv. Mr. Sushant Srivastava, Adv. Mr. Abhiyanshu Ranjan, Adv.
For the Opposite Party/s :		Mrs. Sangeeta Sharma, APP

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**CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY**

**CAV JUDGMENT**

**Date : 17-02-2026**

Heard Mr. Chitranjan Sinha, learned Senior counsel for the petitioner assisted by Mr. Sanchay Srivastava, learned counsel for the petitioner and Mrs. Sangeeta Sharma, learned A.P.P. for the State.

2. The petitioner has made the following prayer in this application :-

*“That the present application is being filed*



*on behalf of the petitioner above-named for quashing and setting-aside the First Information Report (F.I.R.) bearing Kaimur Excise P.S. Case No. 920 of 2024 dated 02.12.2024 for the offences alleged under Sections 8(c), 21(c) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1986 (hereinafter referred to as "N.D.P.S. Act") against the petitioner."*

3. The facts giving rise to the present application is to the effect that a case was instituted on the written complaint of the informant who was posted as Sub-Inspector, Excise Police Integrated Check Post, Mohania, District Kaimur at Bhabua wherein it has been alleged that on 02.12.2024, the vehicles related to illegal materials were being checked and searched at integrated check post, Mohania. It is alleged that a container coming from Uttar Pradesh was intercepted and has no independent witnesses were ready to become witness, the Excise Constables were made independent witnesses and the drivers of the container were searched. It is further alleged that during search from the truck/ container, Phensedyl Codeine Cough Syrup 100 ml containing codeine was recovered in cartoons measuring to 11,105 litres. It has further been mentioned in the



F.I.R. that the illegal codeine cough syrup was being taken to Ranchi and for which the bills were provided. It is alleged that on the same day, in the evening, another truck was intercepted and on search total 11,850 litres of Phensedyl Codeine Cough Syrup was recovered from the same. The bills were also provided for such consignment and it sold that the same was being taken from Haryana to Ranchi. It has been alleged that in the F.I.R. that the trucks were coming without digital lock and as there is a complete banned on liquor intoxicating substance can not be transported without a digital lock and transportation of huge quantity of cough syrup containing codeine creates suspicion.

4. Learned Senior counsel appearing on behalf of the petitioner submits that from bare perusal of the F.I.R., it would be evident that the F.I.R. has been lodged on the pretext that the petitioner and the co-accused have violated the provision of Bihar Prohibition and Excise Act and the informant has even referred to in the F.I.R. requesting to lodge an F.I.R. under appropriate section of Bihar Prohibition and Excise Act. However, with malafide intention of the Excise Police and knowing very well there is no reason to detain or arrest the petitioner and only to justify the illegal and arbitrarily action of the police personnel, the provisions of Bihar Prohibition and Excise Act was struck



down and over written as N.D.P.S. Act. Learned Senior counsel has submitted that the Phensedyl Cough Syrup is a legally manufactured drug under a valid and legal license by MS Abbott Healthcare Private Limited and its medical product which falls under schedule H1 of the Drugs and Cosmetics Act, 1940 and Drugs and Cosmetics Rules, 1945. It has further been submitted that the seized consignment of the Phensedyl Cough Syrup was manufactured under a valid manufacturing License Act, Himachal Pradesh and the same was being transported from the license warehouse of the Abbott Company at Haryana to super distributor of Abbott Company at Ranchi and the truck in question was legally transporting the said consignment after making bookings of the same. Learned Senior counsel has further pointed out that from the perusal of the document, it would be evident that the drugs were being taken from Haryana to Ranchi and it was not meant for sale, distribution or consumption in the State of Bihar. It has further been submitted that the truck was plying under a valid registration and authorization and the consignment was neither illegal, intoxicant drugs or narcotics substance rather it falls under the category of medical product. Learned Senior counsel has stated that the petitioner's company is the owner of the goods carrier truck bearing Reg. No. NL-01Q-



1335 and has been made an accused as unknown truck owner in the F.I.R. Learned Senior counsel has stated that the petitioner is a logistic and transport company which is indulged in the transportation/ shipping of goods and provide logistical support through out the country. It has further been submitted that no specific overact or role has been attributed against the present petitioner except for the fact that the petitioner is the owner of the truck which was transporting the seized consignment. Learned Senior counsel has drawn the attention of this Court towards Annexure P/3 which is the government notification dated 14.11.1985 wherein codeine (Methyl Morphine) and its salts are stated to be exempted however the dosage unit have been limited. It has further been stated that at this juncture that it is also not a case of the prosecution that the said bottles contained codeine beyond and specified limit. It has further been submitted that the approved level of the cough syrup has also been brought on record and it would be evident that the contains of codeine phosphate is only 10 mg. for 5 ml. dosage which is far below the requirement of 100 mg. in the aforesaid notification. It has thus been submitted by the learned Senior counsel that none of the ingredients of the alleged section in the F.I.R. which has been lodged make out a prima facie case against the petitioner. It has



been submitted that Sections 8(c), 21(c) and Section 29 of the N.D.P.S. Act is not at all applicable in the present case. Learned Senior counsel has referred to the judgment rendered by the Hon'ble Supreme Court in the case of *Inder Mohan Goswami vs. State of Uttranchal reported in (2007) 12 SCC page 1*, wherein the Hon'ble Supreme Court has held that the Court must ensure that criminal prosecution is not used and an instrument of harassment for seeking mandata or with an ulterior motive to pressurize the accused. It has been submitted that the present case fits perfectly within the ambit of the observations made by the Hon'ble Supreme Court in the case of *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors., reported in AIR 1992 SC 604*. Learned Senior counsel for the petitioner further refers to a few judgments rendered by the Hon'ble High Court of Allahabad and Hon'ble High Court of Punjab & Haryana wherein the Hon'ble Court have allowed similar applications where Phensedyl Cough Syrup were recovered and the F.I.R. was lodged. The relevant High Courts had quashed the proceedings of the criminal case lodged for the offences under Sections 8, 21(c), 22, 25, 29 and 60(3) of the N.D.P.S. Act. As it is evident that the criminal proceeding is apparently against the circular issued by the Government of India and prima facie no offence is made out



against the petitioner and therefore, the entire criminal proceedings initiated on the basis of the F.I.R. is fit to be quashed.

5. Learned A.P.P. for the State has submitted that the truck of the petitioner was found to be carrying a consignment which was banned in the State of Bihar and the huge quantity was recovered which falls under the commercial quantity. It has further been submitted by the learned A.P.P. for the State that by Notification No. 11 dated 18.10.2016, the State of Bihar has notified all medicines and medicinal preparation containing codeine to be intoxicant for the purpose of the act. It has been submitted that as the petitioner's company was transporting two containers of cough syrup which contained codeine without any secured locking system. Although, they had provided a bill of the same but their acts were found to be suspicious and therefore, the consignment was seized and the petitioner's company was rightly made an accused in the said case.

6. Having heard learned counsel for the parties and having perused the documents on record along with the respective pleadings of the parties, this court finds that this is yet another case wherein the police officials have lodged an F.I.R.



against the accused persons for violation of the provision of N.D.P.S. Act. However, the prosecution has not taken pains in verifying as to the fact that the said Phensedyl Cough Syrup which was seized from the containers was a medicinal product. This Court has come across various such issues where the Phensedyl Cough Syrup or Cough Syrup containing codeine under different brand name have been seized by the police in Bihar on the ground that the medicinal products containing codeine are banned in the State of Bihar. This Court has taken note of the circular dated 14.11.1985 issued by the Government of India which has also brought on record wherein the list of narcotic drugs are mentioned at entry 35 thereof is as follows :

*“Codeine (Methyl Morphine) and its salts (i.e., including codeine phosphate), dilutions and preparations containing not more than 100 milligrams of the drug per dosage unit and with a concentration of not more than 2.5 percent in undivided preparations and which has been established in therapeutic practice”*

7. From perusal of Section 8 of the N.D.P.S. Act, it would be evident that prohibition contained therein is applicable to narcotic drugs and since Phensedyl Cough Syrup contains codeine compounded with one other ingredients namely,



Chlorophenol menate and it contains merely 10 mg. per dosage unit of 5 ml., which is not more than 100 mgs. of the drugs per dosage unit in undivided preparations and therefore it is not a narcotic drug and the provisions of Section 8 will not apply. The Division Bench of the High Court, Allahabad in the case of ***Vibhor Rana vs. Union of India*** while deciding a similar issue rendered the judgment dated 24.12.2021 and taking the entire notification and considering the seizure of Phensedyl Cough Syrups it was held that the composition of New Cough Linctus was found to be 5 ml. and each dosage unit thereof contains 10 mg. of codeine phosphate I.P. besides chlorpheniramine maleate I.P. and thus it falls within the exception to entry 35 of the notification dated 14.11.1985. The Division Bench of the Hon'ble Allahabad High Court had gone to quash the entire proceedings arising out of the complaint lodged for offences under Sections 8, 21(c), 22, 25, 29 and 60(3) of the N.D.P.S. Act.

8. In view of such settled principle of law and finding the facts similar to what had been decided by the Hon'ble Division Bench of the Allahabad High Court and also taking into account the fact that the petitioner's company was merely a transporter and he was neither the supplier nor the receptor of the said consignment. The allegation levelled against the F.I.R. is not



tenable in law and therefore, the F.I.R. bearing Kaimur Excise P.S. Case No. 920 of 2024 and the entire criminal proceedings arising therefrom, is, hereby, quashed.

9. The application stands allowed.

**(Sourendra Pandey, J)**

Gautam/-

<b>AFR/NAFR</b>	NAFR
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