

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16841 of 2025

Arising Out of PS. Case No.-30 Year-2021 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Aurangabad

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Bharat Mali, S/o Late Bhagwan Mali, R/o Mohalla-Budhan Purwa, Ward No.-
16, P.S.- Buxar, District- Buxar

... .. Petitioner/s

Versus

1. The Union of India through Zonal Director, Narcotic Control Bureau, Bihar
Patna
2. The State of Bihar

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Nandlal Kumar Singh, Advocate

For the Opposite Party/s : Mr. Awadhesh Kumar Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

8 08-09-2025 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with NCB

Case No. 30 of 2021 registered for the offences under

Sections 8C, 20(b) (ii) (c), 25 and 29 of the Narcotic Drugs

and Psychotropic Substances Act (in short 'NDPS Act').

3. The petitioner is named in the F.I.R. and is in

custody since 04.12.2021.

4. The allegation against the petitioner is to have in

possession of 375 kilograms of contraband i.e., *ganja*, where

petitioner is the driver of the truck from the cabin of which,



alleged contraband was found and seized.

5. Learned counsel appearing on behalf of the petitioner submitted that despite of long custody period as petitioner remains in custody since 04.12.2021 i.e., more than three and half years, only five prosecution witnesses were examined by the learned Trial Court, where still two witnesses are left to be examined. It is submitted that speedy trial is the fundamental right of the petitioner and in want of trial petitioner cannot be kept behind bar for indefinite period of time. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Hussainara Khatoun & Ors Vs. Home Secretary, State of Bihar, [1980 (1) SCC 98]**. It is also submitted that though rigors of Section 37 of the NDPS Act is available against petitioner in view of recovered quantity, which is more than commercial quantity of contraband, but same cannot override the fundamental right as available under Article 21 of the Constitution of India *qua* speedy trial. While concluding the argument, it is submitted that petitioner found involved in one more criminal case, where he is on bail.



6. Learned counsel appearing on behalf of the NCB, while opposing the prayer for bail submitted that out of 7 prosecution witnesses, 5 witnesses have already been examined, but could not dispute the custody period as submitted aforesaid. It is fairly conceded that matter is pending for examination of prosecution witnesses and these five witnesses were examined in last three and half years.

7. In view of aforesaid factual submissions and by taking note of custody period, as petitioner remains in custody since 04.12.2021 i.e., more three and half years, where matter is still pending for examination of prosecution witnesses and, as such, trial of this case is not likely to conclude in the near future, accordingly, the petitioner, above named, is directed to be released on bail in connection with NCB P.S. Case No. 30 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, (NDPS)-cum-1st Additional District and Sessions Judge, Aurangabad, Bihar/concerned court, 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’) and with
further conditions:-

(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That if petitioner made any deliberate attempt to delay trial, State/informant shall be at liberty to press petition before the learned Trial Court for cancellation of bail bold of petitioner by learned Trial Court, itself, which shall be decided by learned Trial Court, in accordance with law after giving proper opportunity to the petitioner.

(Chandra Shekhar Jha, J.)

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