

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22783 of 2025

Arising Out of PS. Case No.-78 Year-2024 Thana- KUCHAIKOTE District- Gopalganj

Malvindar Singh S/O Natha Singh R/O Vill.- Govind Garh, P.S - Focal Point,
District - Ludhiyana, Punjab

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishor Prasad, Adv.

For the Opposite Party/s : Mr. Mohammad Sufyan, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

7 22-09-2025 Heard the parties.

2. The petitioner seeks bail in connection with Kuchaikote P.S. Case No. 78 of 2024 registered for the offence under Sections 8/20 (b)(ii)(c), 25, 29 of NDPS Act.

3. The petitioner is named in the F.I.R. and are in custody since 23.02.2024.

4. As per FIR, petitioner being driver of the container bearing registration no. UP78BT8621 found in possession of 286.750 Kg of *Ganja*.

5. Learned counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated with present case being driver as nothing transpired during investigation that he was under knowledge of carrying consignment of 286.750 Kg of *Ganja*. It is submitted that in want of culpable mental state in view of Section 35 of NDPS Act, it can be safely said that present is not a case, where rigors



of NDPS Act as available under Section 37 of NDPS Act can be import. It is submitted that mandatory provisions regarding search, sealing and sampling (SSS) also not appears followed in its true spirit and therefore, on this ground alone petitioner deserves bail.

6. Arguing further, learned counsel for the petitioner submitted that the charge-sheet in this matter submitted without obtaining FSL report getting it confirmed whether the seized material was *Ganja* or not, therefore, in view of incomplete charge-sheet petitioner is deserving even default bail, in view of Section 167(2) of Cr.P.C / 187(2) of BNSS. In support of his submission learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Divyas Bardewa vs. Narcotics Control Board*** reported in ***2023 SCC OnLine SC 742***, wherein the matter for consideration of incomplete charge-sheet is pending before the Hon'ble Supreme Court for larger consideration. It is submitted that in view of same the petitioner deserves interim bail. It is submitted that the FSL report deposited before learned trial court on 25.07.2025 only. While concluding the argument, it is submitted that petitioner is a man of clean antecedent.



7. Learned APP while opposing the prayer of bail could not disputed the aforesaid factual and legal submission.

8. In view of aforesaid factual and legal submission and by taking note of fact as charge-sheet in this matter was submitted incomplete without obtaining FSL report, where petitioner remains in custody since 23.02.2024 and further by taking note of ***Divyas Bardewa case (supra)***, petitioner above named, is directed to be released on bail in connection with Kuchaikote P.S. Case No. 78 of 2024 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge, Gopalganj /concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS., subject to condition that:-

- (i) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J)

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