

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26296 of 2025

Arising Out of PS. Case No.-12 Year-2020 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Bhagalpur

Govind Kumar Sah @ Govind Sah, S/o Late Mithilesh Prasad Sah, R/o
Village-Ladaniya, P.S.- Ladaniya, District- Madhubani

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India, through Intelligence Officer, Narcotics Control Bureau,
Patna Zonal Unit Bihar

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Govind Raja Shahi, Advocate Mr. Parth Gaurav, Advocate
For the State	:	Ms. Anita Kumari, APP
For the Union of India (NCB):		Mr. Awadhesh Kumar Pandey, Senior C.G.C. Mr. Arvind Kumar, CGC Mr. Lokesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 30-07-2025 Heard learned counsel for the petitioner and learned

senior counsel appearing for the Union of India/NCB.

2. The accused/petitioner seeks bail in connection

with NDPS Case No.28 of 2020 arising out of NCB Case

No.12 of 2020 registered for the offences punishable under

Sections 8, 20(b)(ii)(c), 25, 28, 29, 35 and 60 of the Narcotic

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

3. The accused/petitioner is named in the FIR and is

in custody since 14.10.2020.

4. Allegation against the petitioner is to have in



possession of 370 kg. of *ganja*.

5. It is submitted by learned counsel appearing for petitioner that petitioner remains in custody since 14.10.2020, whereas out of eight charge-sheeted witnesses, only three witnesses have been examined in last five years. It is submitted that petitioner cannot be kept behind the bar for indefinite period in want of trial. In support of his submission that speedy trial is a fundamental right of the accused/petitioner, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **Hussainara Khatoun & Ors vs. Home Secretary, State of Bihar** reported in **(1980) 1 SCC 98**. It is pointed out by learned counsel that petitioner found involved in five criminal cases and in most of the cases, his name transpired on the basis of confessional statement.

6. Without exploring any avenues of available merit, learned counsel appearing for petitioner straightway relied upon legal report of Hon'ble Supreme Court as available through **Rabi Prakash vs. State of Odisha** since reported in **2023 SCC OnLine SC 1109** and submitted that the case



of petitioner is squarely covered on the ground of prolonged incarceration, as it appears to militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

7. Learned Central Government counsel appearing for NCB could not disputed the aforesaid factual submissions *qua* slow progress of trial and also the period of custody.

8. In view aforesaid, considering the prolonged incarceration of about five years and slow progress of trial, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned District and Additional Sessions Judge-XI, Bhagalpur in connection with N.D.P.S. Case No.28 of 2020 arising out of NCB Case No.12 of 2020, 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 petitioner shall co-operate 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. Upon non-cooperation, the prosecution may be at liberty to move before the learned trial court itself for cancellation of bail bond of the petitioner.

9. Before parting with this order, it is important to mention that six witnesses in this matter are NCB officials and two are seizure list witnesses. However, the department has failed to produce their witnesses for examination in last five years. It is the laches of the department due to which, the trial was not concluded and petitioner remains in custody for long five years.

10. Considering the nature of offence, which affecting adversely the socio-economic framework of our country, the Joint Director, NCB, Patna is directed to look into this matter and to take all possible steps for expeditious disposal of such matters, by producing official witness in time



to check such accused to avail benefit out of delayed trial.

11. Let a copy of this order be communicated to the
Joint Director, NCB, Patna forthwith for its immediate
compliance.

(Chandra Shekhar Jha, J.)

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