

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25115 of 2025

Arising Out of PS. Case No.-13 Year-2012 Thana- EAST CHAMPARAN GRP CASE
District- East Champaran

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Md. Shakil Alam @ Shakil @ Raju S/O Late Tahid R/O Village- Khairwa,
P.S.- Chhauradano, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar
For the Opposite Party/s : Mr. Ajit Kumar

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 29-07-2025 Heard the parties.

2. The petitioner seeks bail in connection with Rail
Motihari P.S. Case No. 13 of 2012 registered for the offence
under Sections 8, 20, 22 of the NDPS.

3. The petitioner is named in the F.I.R. and is in
custody since 10.01.2025.

4. The allegation against the petitioner is to have in
possession of 4.5 kg of “*charas*” alongwith other named co-
accused persons.

5. Mrs. Rashmi Jha, learned counsel appearing on
behalf of the petitioner submitted that the name of the
petitioner surfaced on the basis of disclosure of apprehended



co-accused namely, Harish Kumar and Bikram Saini, where it was disclosed in FIR, against this petitioner that he visited the hotel where they were stayed. It is further submitted that from FIR or statement of apprehended co-accused it no where appears that even this petitioner was aware about possession of alleged “*charas*” by them and therefore culpable mental state in view of Section 35 of NDPS Act cannot be said available *prima-facie qua* petitioner. It is submitted that admittedly as per FIR, recovery of contraband was made from the possession of co-accused Harish Kumar and Bikram Saini, which further appears corroborated from seizure list. Traveling further, it is submitted that subsequently, thereafter, on same very day a confessional statement of apprehended co-accused was recorded with improved version that this petitioner provided them alleged “*charas*”, which was recorded by Motihari Rail Police. It is pointed out that in view of aforesaid as seized “*charas*” not appears to be recovered from physical possession of this petitioner, the import of section 37 of NDPS Act not appears applicable particularly, when culpable mentality of petitioner also *prima-facie*,



appears doubtful in view of Section 35 of NDPS Act. It is submitted that beside aforesaid, none of the mandatory provisions, available under NDPS Act appears followed by investigating agency. While concluding the argument, it is submitted that petitioner is found involved in one more criminal case of different nature, where he is on bail, and moreover, investigation of this case already completed, as such, there is no chance of tampering with the evidence.

6. Learned APP, while opposing the prayer of bail submitted that as per confessional statement this petitioner provided “*charas*” to apprehended co-accused but fairly conceded that FIR and confession recorded on same very day where this fact appears not disclosed by co-accused person in FIR.

7. In view of aforesaid factual submission and by taking note of fact as save and except suspicions arising of confessional statement nothing appears incriminating against petitioner where admittedly “*charas*” in issue was recovered from the apprehended co-accused persons, coupled with fact that investigation has already been completed where



petitioner remains in custody since 10.01.2025, accordingly
petitioner above named, is directed to be released on bail in
connection with Rail Motihari P.S. Case No. 13 of 2012 on
furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand)
with two sureties of the like amount each to the satisfaction of
learned Exclusive Spl. Court I, NDPS Act, East Champaran,
Motihari /concerned court, subject to the conditions as
mentioned under Section 437(3) of the Cr.P.C/ Section
480(3) of BNSS.

(Chandra Shekhar Jha, J)

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