

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30809 of 2025

Arising Out of PS. Case No.-1 Year-2021 Thana- THAWE District- Gopalganj

Ashif Khan @ Saddam Hussain @ Asif Khan S/O Shafi Khan @ Safi Ahmad
Resident of Village- Indarwa Bairam, P.S.- Nagar Gopalganj, Dist.- Gopalganj
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Upadhyay, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-06-2025 Heard Mr. Dhananjay Kumar Upadhyay, learned
counsel for the petitioner and Mr. Satya Nand Shukla, learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
02.01.2021 in connection with Thawe P.S. Case No. 01 of 2021,
F.I.R. dated 01.01.2021 for the offences punishable under
Sections 399, 402, 414 of Indian Penal Code and 8/20(b) (ii) (a)
of N.D.P.S. Act and under Sections 25(1-b)a/26/35 of Arms Act.

3. According to prosecution case, 1.200 Kgs of Ganja
has been recovered from the vehicle in question and petitioner
was apprehended along with aforesaid contraband.

4. The trial has not been progressed as yet. Earlier the
bail petition of the petitioner was rejected by this Court vide
order dated 06.04.2023 passed in Cr. Misc. No. 66613 of 2022.

5. Learned counsel for the petitioner submits that

petitioner is innocent and he has falsely been implicated in the present case. He further submits that 1.200 Kgs of Ganja has been recovered from the vehicle in question and petitioner was apprehended along with aforesaid contraband. He further submits that petitioner was one of the co-passenger in the vehicle and he has no concern at all with the alleged recovery of the vehicle. He further submits that there is non compliance of the mandatory provision of Sections 42 and 52(A) of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that co-accused, namely, Ajay Kumar @ Ajay has been granted regular bail by this Court vide order dated 31.01.2025 passed in Cr. Misc. No. 86263 of 2024. He further submits that although, the petitioner is in custody since 02.01.2021 and the trial has not been progressed as yet.

6. Vide order dated 09.05.2025, a report was called for with regard to present stage of trial. Report of learned trial court dated 21.05.2025 reveals that the charge has not been framed and out of nine accused persons in the present case, eight accused persons have been granted bail and four accused persons are not turning up before the Court for the framing of

charge so, charge has not been framed as yet.

7. Learned counsel for the petitioner referring to the aforesaid report submits that in view of the report of learned trial court, the trial is not likely to be concluded in near future, the petitioner is under custody since 02.01.2021 and other co-accused person has been granted bail by this Court.

8. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries four criminal antecedents other than the present one.

9. Considering the aforesaid facts and circumstances that the recovered contraband is less than the commercial quantity and apart from that report of the trial court reveals that the charge has not been framed as yet and petitioner is in custody since 02.01.2021, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, District- Gopalganj in connection with Thawe P.S. Case No. 01 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court

and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Raj Ranjan/-

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