

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31608 of 2025

Arising Out of PS. Case No.-94 Year-2024 Thana- HAJIPUR SADAR District- Vaishali

Prince Kumar @ Shahil, S/o Late Ram Janam Rai @ Ramjeevan Rai,
Resident of Village-Lalpokhar, Dighi, P.S.- Hajipur Sadar, District- Vaishali
... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India through Narcotics Control Bureau, Patna Bihar

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Shivanand Singh, Advocate
For the State	:	Mr. Arun Kumar Pandey, APP
For the NCB	:	Mr. Mithlesh Kumar Gupta, CGC

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 30-10-2025 Heard learned counsel for the petitioner and learned
counsel appearing for the Union of India/NCB.

2. The accused/petitioner seeks bail in connection
with NDPS (Gr) Case No.32 of 2024 arising out of Hajipur
Sadar P.S. Case No.94 of 2024 registered for the offences
punishable under Sections 8, 20(b)(ii)(C) 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 22.02.2024.

4. As per FIR, the allegation against petitioner is to
have in possession of 1.51 kg of charas.



5. It is submitted by learned counsel appearing for the petitioner that the alleged recovery was shown from the back-pack of the petitioner without proper compliance of Section 50 of the NDPS Act *qua* search upon person. It is submitted that the different mandatory provisions *qua* sampling, seizure and sealing as provisioned mandatory under NDPS Act are also not appears followed in its true spirit. It is submitted that the charge-sheet after investigation was submitted incomplete without obtaining FSL report ascertaining whether the seized material was 'charas' or not. It is submitted that the charge-sheet was submitted on 19.02.2024 only to defeat the legal right of petitioner *qua* default bail as provisioned under Section 167 of the Code of Criminal Procedure (in short 'CrPC')/under Section 187 of the Bhartiya Nagrik Suraksha Sanhita (in short 'BNSS'). In this context, it is submitted that the FSL report was issued from the office of Regional Forensic Science Laboratory, Muzaffarpur, Bihar only on 22.11.2024. It is submitted that therefore in view of **Divyas Bardewa vs. NCB [Special Leave to Appeal (Crl.) No. 11628 of 2022]**, the



petitioner deserves bail on this ground alone.

6. Arguing further, it is submitted that the petitioner remains in custody for about one year and eight months and despite of this long custody, not even single prosecution witness was examined by the prosecution. Certainly, petitioner cannot be kept behind the bar for indefinite period in want of trial, which also appears in violation of his fundamental right *qua* speedy trial as available under Article 21 of the Constitution of India.

7. Explaining criminal antecedent, it is submitted that the petitioner found involved in eleven more criminal cases, where he is on bail. It is pointed out that merely on the basis of criminal antecedent, the bail of petitioner ordinarily should not be denied and in support of his submission, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **Prabhakar Tewari vs. State of U.P. & Ors. [(2020) 11 SCC 648]**.

8. Learned counsel appearing for the Union of India/NCB submitted that recovery of 'charas' was commercial quantity. Therefore, in view of Section 37 of the



NDPS Act, the petitioner is not deserving bail. However, he could not disputed the aforesaid legal and factual submissions as advanced by learned counsel for the petitioner.

9. In view of aforesaid factual submissions and by taking note of fact as the charge-sheet appears submitted incomplete *qua* petitioner, coupled with the fact that not even a single prosecution witness was examined in this case till now, where petitioner remains in custody since 22.02.2024, accordingly, 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-1st-cum-Special Judge, NDPS, Vaishali at Hajipur in connection with NDPS (Gr) Case No.32 of 2024 arising out of Hajipur Sadar P.S. Case No.94 of 2024 subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the 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.

(ii) That the petitioner shall not make any deliberate attempt to delay the trial failing which, the prosecution/State shall be at liberty to press before the learned trial court itself for cancellation of bail bonds of the petitioner.

(Chandra Shekhar Jha, J.)

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