

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34831 of 2025

Arising Out of PS. Case No.-20 Year-2025 Thana- THAKURGANJ District- Kishanganj

1. Mehar Badshah @ Mehar Badsha S/o Sehar Ali R/o Vill.- Sukarurkutti, P.S.- Dinhatta, Distt.- Kuchbihar (W.B.)
2. Nazmul Haque S/o Abdul Wani Seikh R/o Vill.- Sukarurkutti, P.S.- Dinhatta, Distt.- Kuchbihar (W.B.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. NK Agrawal, Sr. Adv.

Mr. Kumar Rajdeep, Adv.

For the Opposite Party/s : Mr. Nitya Nand Tiwary, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 30-10-2025 Heard the parties.

2. The petitioners seeks bail in connection with Thakurganj P.S. Case No. 20 of 2025 registered for the offence under Sections 20(b)(ii), 29 of NDPS Act.

3. The petitioners are named in the F.I.R. where both petitioners remains in custody since 03.02.2025.

4. The allegation against the petitioners is to have in possession of total of 10.280 kg of contraband i.e., *Ganja*.

5. Learned counsel appearing on behalf of the petitioners submitted that petitioner no. 1 and 2 were on different bikes from where each of the bike 5.2 kg of contraband



i.e., *Ganja* alleged to be recovered, where to aggravate the allegation it was shown jointly. It is also pointed out that mandatory provision regarding search, sealing and seizure (SSS) as provisioned under NDPS Act, 1985 also not appears followed in its true spirit. It is submitted that as recovered quantity is less than commercial quantity, therefore, rigors of Section 37 of NDPS Act not appears applicable in present case. While concluding the argument, it is submitted that in present case charge-sheet was submitted incomplete without FSL report as it appears from the perusal of supplementary case diary that same was submitted on 21.03.2025 without FSL, as, FSL report was issued from forensic laboratory of Bhagalpur on 29.04.2025 itself, and therefore 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*** as submitted that on this ground alone petitioner deserves bail. Both petitioners are men of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP while opposing the prayer of bail



submitted that recovery was made from physical possession of the petitioners, however, he could not disputed rest of the submission as advanced by learned counsel for the petitioner.

7. In view of aforesaid factual and legal submission and by taking note of fact as recovered quantity of contraband is less than commercial quantity, where charge-sheet also appears submitted incomplete without obtaining FSL report, coupled with fact that petitioners remains in custody since 03.02.2025, accordingly both above named petitioners are directed to be released on bail in connection with Thakurganj P.S. Case No. 20 of 2025 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of learned Session Judge cum Special Judge (NDPS Act) Kishanganj /concerned court, subject to the conditions as mentioned under Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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