

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36579 of 2025

Arising Out of PS. Case No.-234 Year-2024 Thana- JADIA District- Supaul

1. Buddhu Sah @ Budadhu Sah, S/O Late Shibu Sah R/O Village- Hirapatti Ward no.12, PS- Jadia, Distt-Suapaul
2. Chhattar Kumar, S/O Buddhu Sah @ Budadhu Sah R/O Village-Hirapatti Ward no. 12, PS-Jadia, Distt-Supaul.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 14-08-2025 Heard learned counsel appearing on behalf of the

petitioners and learned APP appearing on behalf of the State.

2. The petitioners seek bail in connection with NDPS Case No. 113/2025 arising out of Jadia P.S. Case No. 234/2024, registered for the offence under Sections 8(C), 20(b)(ii), (C), 25 and 29 of the Narcotic Drugs & Psychotropic Substance Act, 1985 (in short NDPS Act).

3. The both abovenamed accused/petitioners are named in the F.I.R. and are in custody since 22.12.2024.

4. As per FIR, a raid was conducted in the village of the petitioners, pursuant thereof, search was made of the houses of different co-villagers, wherein a total of 37 packets of *contraband/ganja*, weighing total of 37 Kg, was said to be



recovered from a hut/cottage constructed in front of the house of petitioners.

5. Learned counsel appearing on behalf of the petitioners submitted that as per facial perusal of the FIR itself, it can be gathered safely that the alleged contraband was not recovered from the house of these petitioners, rather from an abandoned cottage which was in front of the house of petitioners. It is submitted that as the cottage in issue was in front of the house of these petitioners, petitioners were implicated with present case, otherwise having no connected evidence *qua* possession of contraband appears available. It is submitted that the learned trial court took cognizance in this matter against petitioners on the basis of wrong FSL report, as it is evident from the order dated 23.04.2025, where the FSL report no. 1167/24 dated 04.11.2024 was taken into consideration, which is in connection with Ratanpura P.S. Case No. 53/2024, whereas the petitioners are implicated with Jadia P.S. Case No. 234/24. It is further submitted that the sample of contraband was drawn in the present case for forensic examination only on 17.01.2025, whereas charge-sheet submitted in this matter on 22.02.2025 without obtaining the FSL report as sent aforesaid. It is submitted that the charge-sheet without FSL report is an incomplete charge-



sheet and, therefore, petitioners are entitled for default bail. In support of his submission, learned counsel relied upon the legal report of the Hon'ble Supreme Court as available through ***Divyas Bardewa Vs. Narcotics Control Bureau, in SPL(CrI) Nos. 8164-8166/2021***, wherein the accused were granted interim bail as matter is parity considering the larger issue, whether the accused is entitled for default bail or not in view of the incomplete charge-sheet i.e. charge-sheet without FSL. It is pointed out that taking note of the aforesaid order of the Hon'ble Supreme Court, several learned co-ordinate Benches of this Court granted bail to accused persons, where charge-sheet submitted without FSL and in support of his submission one such order dated 19.05.2025 as passed by one of the learned co-ordinate Bench of this Court in Cr. Misc. No. 31425 of 2025 was referred.

6. Learned APP while opposing the prayer of bail could not disputed the aforesaid factual aspects.

7. Considering the aforesaid factual submissions and by taking note of the fact as charge-sheet in the present case submitted without FSL report and, moreover, cognizance was taken *prima facie* on wrong FSL report as discussed aforesaid, accordingly, both abovenamed petitioners, are directed to be released on bail in connection with NDPS Case No. 113/2025



arising out of Jadia P.S. Case No. 234/2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Session Judge-III-cum-Special Judge, NDPS Act, Supaul/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C./Section 480(3) of BNSS, subject to outcome of **Divyas Bardewa case (supra)**, with further condition that:-

- (i) Accused/Petitioners shall cooperate 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 petitioners duly supported by the documents.

(Chandra Shekhar Jha, J)

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