

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38414 of 2025

Arising Out of PS. Case No.-259 Year-2024 Thana- BELA District- Sitamarhi

Ramesh Kumar @ Ramesh Sah S/O Late Ramsharan Sah R/O Vill.-
Bhagwatipur, P.s.- Bela, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Thakur, Advocate
		Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Rajendra Singh Shastri, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

4 03-09-2025 Heard Mr. Ajay Thakur, learned counsel for the
petitioner and Mr. Rajendra Singh Shastri, learned APP for the
State.

2. The petitioner has prayed for regular bail in a case
registered for the offence punishable under sections 8, 27(a),
20(b)(ii) C, 22 and 23 of the N.D.P.S. Act.

3. The case of the prosecution is that the informant
was on vehicle checking duty at that time, one *scorpio* vehicle
was coming from the side of *bela* which was intercepted but the
scorpio met with an accident in an endeavour to flee away from
the place. It is further alleged that two persons started fleeing
away and they were apprehended. Petitioner was also
apprehended. It is alleged that from that *scorpio* altogether



107.80 kg of ganja was recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. A statement has been made in para-3 of this petition that the petitioner has got no criminal antecedent. Learned counsel for the petitioner has submitted that nothing has been recovered from the conscious possession of this petitioner. He has also submitted that from perusal of the seizure list, it will transpire that there is no description regarding accident of the *scorpio* rather only a *scorpio* has written in the seizure list. It has also been submitted that the raiding party was not having any kit to examine the contraband at the place of occurrence. It has also been submitted that from perusal of charge sheet, it is quite clear that the charge sheet was filed prior to the FSL report. In this regard, there is an order of this Court passed in **Cr. Misc. No. 65898 of 2023**, wherein the Co-ordinate Bench has opined that from reading of Section 36(a) sub-clause 4 of the NDPS Act, it appears that in the case of offence punishable under Section 19 or Section 24 or Section 27(a) or for offences involving commercial quantity, the charge-sheet can be submitted within 180 days and if the charge-sheet is not submitted within 180 days, the accused person is entitled for



default bail. The proviso to Section 37(a) speaks that public prosecutor may take an extension of time for filing the charge-sheet and 180 days time can be extended for a period up to one year. After the public prosecutor files that progress report of the investigation and gives specific reasons for detention of the accused beyond the said period of 180 days. In the present case, the Special Public Prosecutor has not filed any application for extension of period of the charge-sheet and the charge-sheet as per the contention of the petitioners has been filed without FSL report. Learned counsel for the petitioner has further submitted that the petitioner is languishing in judicial custody since 05.12.2024.

7. In the case of **Rabi Prakash vs. the State of Odisha**, Hon'ble Supreme Court has held that the prolonged incarceration generally militate against the most precious fundamental right guaranteed under Article 21 of the Constitution of India and in such situation, the conditional liberty must override the statutory embargo created under Section 37 sub-clause 1(b) of the NDPS Act. The charge-sheet filed without FSL report does not ipso facto creates any embargo against the fundamental right of a citizen enshrined in Article 21 of the Indian Constitution.



5. Learned APP appearing for the State has vehemently opposed the prayer of regular bail.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Bela P.S. Case No. 259 of 2024 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (NDPS Act), Sitamarhi.

(Ashok Kumar Pandey, J)

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