

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50864 of 2025

Arising Out of PS. Case No.-227 Year-2024 Thana- ADAPUR District- East Champaran

Jholan Rai @ Bhulan Kumar @ Jhulan Rai S/o Ram Daresh Rai R/o Village-
Tikuliya, P.S.- Adapur, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sauravh Singh, Adv
For the Opposite Party/s : Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 16-10-2025 Heard the parties.

2. The petitioner seeks bail in connection with Adapur
P.S. Case No. 227 of 2024 registered for the offences under
Section 132 of the Bharatiya Nyaya Sanhita and Section 8, 20(b)
(ii)(c) of the NDPS Act.

3. The petitioner is named in the F.I.R. and is in custody
since 11.11.2024.

4. As per FIR, 11 kilograms of *ganja* was recovered
from the house of apprehended co-accused namely Akhtar Sah
and further 120 kilograms of *ganja* was recovered from the
Scorpio Car bearing registration no. BR 05 PB 2147 parked
backside his house.

5. Learned counsel appearing on behalf of the petitioner



submitted that name of this petitioner transpires in the present case on the basis of disclosure as made by apprehended co-accused Akhtar Sah, in furtherance of which no incriminating material/*ganja* was recovered from the possession of this petitioner, which may suggest prima-facie involvement of this petitioner *qua* alleged recovery of contraband/*ganja*. It is submitted that nothing transpired during the course of investigation, which may suggest that petitioner was under culpable mental state under Section 35 of the NDPS Act regarding possession of *ganja*, therefore, rigors of Section 37 of the NDPS Act not appears applicable in the present case. It is also submitted that mandatory provisions regarding search, sampling and seizure (SSS) not appears followed in its true spirit as provisioned under NDPS Act, 1985.

6. Arguing further, it is submitted that car from which huge quantity of contraband i.e., 120 kilograms of *ganja* was recovered was found registered in the name of Akhtar Sah and same not appears related in any manner with this petitioner. It is also pointed out that charge-sheet was submitted on 05.11.2024 without obtaining FSL report without ascertaining whether seized contraband was *ganja* or not. It is submitted that aforesaid incomplete charge-sheet was filed intentionally to defeat privilege



qua default bail as available under Section 167 of the Cr.P.C./Section 187 of the BNSS. It is pointed out that matter *qua* incomplete charge-sheet is pending for larger consideration before Hon'ble Supreme Court as **Divyas Bardewa Vs. Narcotics Control Bureau** through **SLA (Crl.) No. 11628 of 2022**, where accused was granted interim bail till outcome of the case. In view of same petitioner is also entitled for bail on the basis of incomplete charge-sheet alone. While concluding the argument it is submitted that, petitioner found involved in seven more cases, where he is on bail and moreover, investigation of this case has already completed, and as such, there is no chance of tampering with the evidence.

7. Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that recovery of contraband was in huge quantity and name of this petitioner was disclosed by co-accused Akhtar Sah immediately upon his arrest. Learned APP fairly conceded that charge-sheet was submitted without obtaining FSL report as same was made available by FSL Muzaffarpur on 31.01.2025, whereas charge-sheet was submitted on 05.11.2024.

8. In view of aforesaid factual submission and by taking note of fact as except suspicion arising out of disclosure as made



by apprehended co-accused nothing incriminating appears against this petitioner during the course of investigation, where charge-sheet was submitted without obtaining FSL report as discussed aforesaid, coupled with the fact as petitioner remains in custody since 11.11.2024, accordingly above named petitioner, is directed to be released on bail in connection with Adapur P.S. Case No. 227 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court-1, NDPS Act, Motihari, East Champaran/concerned court, subject to the conditions as mentioned under Section 480(3) of the B.N.S.S.

(Chandra Shekhar Jha, J.)

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