

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45352 of 2025

Arising Out of PS. Case No.-102 Year-2025 Thana- DHANAHA District- West Champaran

Surendra Yadav S/O Late Radha Kishun Yadav @ Late Radha Kishan Yadav
@Late Radha Yadav R/O Village- Katha, Bhatha Tola, Police Station
Dhanaha, District -West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. NK Agrawal, Sr. Adv. Mr. Vijay Kr Singh No. 1, Adv. Mr. Kumar Rajdeep, Adv. Mr. Saroj Kr. Choudhary, Adv.
For the Opposite Party/s :		Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 31-10-2025 Heard the parties.

2. The petitioner seeks bail in connection with
Dhanaha P.S. Case No. 102 of 2025 registered for the
offence under Sections 8, 20(b)(ii)(c) and 29 of the N.D.P.S.
Act and Sections 25(1-b)a, 26 and 35 of the Arms Act.

3. The petitioner is named in the F.I.R. and is in
custody since 02.04.2025.

4. As per the FIR, petitioner alongwith co-accused
persons alleged to have in possession of 1 kg 5 gms of
charas/contraband in two different packets rapped in brown
paper alongwith one country-made pistol and three live



cartridges.

5. Mr. N.K. Agrawal, learned Senior Counsel appearing on behalf of the petitioner submitted that the commercial quantity for the alleged contraband is one kilogram. It is submitted that weight shown is marginally high to make it commercial i.e. 1 kg 5 gms. It is pointed out that the contraband was found rapped in brown paper in two separate packets and therefore any weight of brown paper for two different packets be taken into consideration *prima facie* the actual quantity of contraband comes below commercial quantity, therefore, implication of Section 37 of N.D.P.S. Act appears not applicable in the present case. It is pointed that after investigation police submitted charge-sheet in the present case through charge-sheet no. 274/2025 dated 15.07.2025, upon perusal of which it transpires the same was submitted incomplete without obtaining F.S.L. report. In this context it is submitted that this matter is pending before Hon'ble Supreme Court for consideration in the is matter of **Divyas Bardewa vs. Narcotics Control Bureau**, reported in **2023 SCC Online SC 742**. and therefore till outcome of



the said case, the petitioner deserves to be enlarged on bail. While explaining criminal antecedent, it is submitted that petitioner is found involved in twelve more criminal cases where he is on bail. It is submitted that in maximum of these cases the petitioner was implicated out of confessional statement or suspicion. It is submitted that the merit of this case is otherwise convincing but criminal antecedent should not be the sole criteria to decline the prayer of bail for which learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Prabhakar Tewari vs. State of Uttar Pradesh and Anr.*** reported in ***(2020) 11 SCC 648***. While concluding argument it is submitted that investigation of these cases are completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP could not disputed the aforesaid facts and submissions advanced on behalf of the learned Senior Counsel for the petitioner.

7. In view of aforesaid factual submission as recovered quantity *prima-facie* appears doubtful to the extent



of commercial quantity shown as discussed aforesaid, coupled with fact that charge-sheet appears incomplete without F.S.L. report where petitioner remains in custody since 02.04.2025, accordingly petitioner above named, is directed to be released on bail in connection with Dhanaha P.S. Case No. 102 of 2025 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 Judge (N.D.P.S.), West Champaran, Bettiah /concerned court, subject to the conditions as mentioned under Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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