

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49946 of 2025

Arising Out of PS. Case No.-285 Year-2024 Thana- HAJIPUR SADAR District- Vaishali

Avinash Kumar S/o Binod Ram R/o Village- Goraul, P.S.- Goraul, District-
Vaishali. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 11-09-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with
Hajipur Sadar P.S. Case No.285 of 2024 registered for the
offences punishable under Sections 399, 402, 412 of the Indian
Penal Code (in short 'IPC'), Section 25(1-b)a, 26, 35 of the Arms
Act as well as Sections 8 and 20(b)(ii)(C) of the Narcotic Drugs
and Psychotropic Drugs Act (in short 'N.D.P.S. Act')

3. The accused/petitioner is named in the FIR and is in
custody since 12.09.2024.

4. Allegation against the petitioner is to involve in
preparation for dacoity along with other co-accused persons,
where from possession of one of the co-accused Briju Kumar
recovery of 1.140 gms of *charas* was made.

5. It is submitted by learned counsel appearing for the



petitioner that nothing transpired during investigation which may suggest that the co-accused persons were gathered for preparation of dacoity and merely on the basis of disclosure of apprehended co-accused persons, the petitioner was implicated with this case. It is submitted that petitioner was not arrested on spot and no incriminating material was recovered from his possession. It is submitted that as petitioner was found involved in ten more criminal cases, where he is on bail, a suspicion arising out of these criminal antecedents, he was implicated with present criminal case without any cogent material. It is pointed out that save and except suspicion arising out of criminal antecedents and disclosure made by apprehended co-accused persons, no incriminating material appears against this petitioner during course of investigation, which may suggest that he was involved in alleged preparation of dacoity or connected in any manner with possession of Charas with co-accused. It is submitted that as it was not in the knowledge of the petitioner *qua* possession of charas/contraband by other co-accused persons, it cannot be said that he was under culpable mental state *qua* possession of contraband in view of Section 35 of NDPS Act and, therefore, import of Section 37 of NDPS Act appears not applicable in present case. It is submitted that other similarly situated co-accused persons granted bail by one of the



learned co-ordinate Bench of this Court through Cr. Misc. No. 55499 of 2024 and Cr. Misc. No. 55639 of 2024 dated 26.10.2024 and, therefore, on the ground of parity this petitioner also deserves bail. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP opposed the prayer for grant of bail to the petitioner.

7. In view of aforesaid factual submissions and by taking note of fact as *prima facie* except suspicion arising out of disclosure of apprehended co-accused persons, nothing incriminating appears against petitioner during investigation as to connect him with present crime in question, coupled with the fact that investigation of this case is already completed, where petitioner remains in custody since 12.09.2024, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I-cum-Special Judge NDPS, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No.285 of 2024, NDPS 36 of 2025, subject to the conditions as



laid down under Section 437(3) of the Code of Criminal Procedure
(for short ‘CrPC’)/under Section 480(3) of the Bhartiya Nagrik
Suraksha Sanhita (for short ‘BNSS’).

8. Pending petition, if any, shall be disposed of.

(Chandra Shekhar Jha, J)

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