

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54441 of 2025

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

Aslam Hussain @ Aslam Shah S/o Late Merajul Haque @ Late Merajul Huq
Resident of Village- Jhitakahiya, P.S.- Adapur, Dist.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv
For the Opposite Party/s : Mr. Navin Kr. Pandey, 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 not named in the F.I.R. and is in custody since 07.05.2025.

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. At the relevant point of time, petitioner was in judicial custody in connection with Ramnagar P.S. Case No. 535 of 2024. While concluding the argument it is submitted that, petitioner found involved in eight more cases, where he is on bail in seven cases 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 07.05.2025, 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 Judge-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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