

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64487 of 2025

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

Vivek Kumar @ Bhako, S/o Harindra Ray, R/o Village-Hathsarganj, Naka
No. 3, P.S.- Hajipur Town, Dist.- Vaishali (Bihar)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Singh, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No.1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 12-12-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Hajipur Town 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') and Sections 25(1-B)a, 26 and 35 of the Arms Act as well as Sections 8, 20-B(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act (in short 'N.D.P.S. Act').

3. The accused/petitioner is named in the FIR and is in custody since 06.05.2024.

4. Allegation against petitioner is to have in



possession of 1.140 gms of *charas*.

5. It is submitted by learned counsel appearing for petitioner that no contraband appears to be recovered from the petitioner and he was found only in possession of one country-made pistol and live cartridge. It is submitted that recovery not appears to be made from conscious physical possession of this petitioner and *charas* as alleged appears to be recovered from possession of co-accused person, namely, Birju Kumar, who has already granted bail by this Court. It is submitted that in present case, the charge-sheet was submitted without obtaining F.S.L. report just to defeat the legal right of petitioner as available under Section 167(2) of the Code of Criminal Procedure (in short 'CrPC')/under Section 187(2) of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS') and, therefore, the charge-sheet was incomplete in itself. It is submitted that on the ground of incomplete charge-sheet, the petitioner deserves interim bail as this matter is for larger consideration before Hon'ble Supreme Court in the matter of **Divyas Bardewa vs. NCB**. While concluding argument, it is submitted that on all material



aspects the investigation of this case is concluded and there is no chances of tampering with evidence.

6. In view of aforesaid, a report was also called for in analogous case i.e. Cr. Misc. No.52239 of 2025 from the learned trial court, which made available to this Court through Letter No.115/2025 dated 13.11.2025, which speaks that till 13.11.2025, F.S.L. report was not submitted by the investigating authority and, therefore, the matter is still pending for framing of charge.

7. Learned APP while opposing the prayer of bail could not disputed the aforesaid factual submissions.

8. In view of facts and circumstances, as petitioner was not found in possession of contraband i.e. *charas* rather he was found in possession of only one country-made pistol and live cartridge, coupled with the fact that despite of custody for about one and a half years even charge could not framed against petitioner, which is sufficient to suggest that the trial of this case is not likely to conclude in near future, 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 District and Sessions Judge-I-cum-Special Judge, N.D.P.S., Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No.285 of 2024, subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the BNSS.

(Chandra Shekhar Jha, J.)

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