

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81809 of 2024

Arising Out of PS. Case No.-2 Year-2023 Thana- BARGAINIA District- Sitamarhi

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Jangali Paswan @ Sunil Son of Hirwa Paswan R/o A Tola Punarwas
Nagar, Palika Lal Bandi, 02 Ward No.2, P.S. - Lal Bandi, Dist. - Sarlahi
(Nepal)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr.Santosh Kumar, Advocate

For the Opposite Party : Mr.Pawan Kumar Chaurasia,APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

11 12-08-2025 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. The accused/petitioner seeks bail in connection with

Bairgania P.S. Case No. 02 of 2023 registered for the offences

under Sections 8/20(b)(ii)(c) of the Narcotic Drugs and

Psychotropic Substances Act (in short the, 'N.D.P.S. Act')

3. The accused/petitioner is named in the First

Information Report and is in custody since 05.01.2023.

4. Allegation against the petitioner is to have in

possession of 1.174 kgs. of Charas.

5. It is submitted by learned counsel appearing on

behalf of the petitioner that as per FIR, recovery was of '**Charas**



like substance' and without any preliminary test ascertaining *prima facie* that same was Charas, it was seized and sample was drawn. It is pointed out that the mandatory provisions regarding sampling, search and seizure not appears to be followed in terms of N.D.P.S. Act, 1985. It is also submitted that even the charge-sheet was submitted without FSL report on 24.06.2023, and, therefore, it was an incomplete charge-sheet, on the basis of which cognizance was taken, however it is conceded that FSL report was made available to the trial court on 13.12.2024 only.

6. While concluding argument, it is submitted that petitioner remains in custody for about two years and seven months, but during aforesaid period, only two prosecution witnesses were examined out of eight, and, therefore, it can be safely said that trial of present case is not likely to be concluded in near future and, on this score alone, petitioner deserves bail, as the petitioner cannot be kept behind the bars for any indefinite period in want of trial, which is in violation of his fundamental right *qua* speedy trial.

7. Learned A.P.P. for the State, while opposing the prayer of bail of the petitioner, submitted that recovery was of commercial quantity and therefore, in view of section 37 of the



N.D.P.S. Act, bail shall not be granted to the petitioner.

8. It is also pointed out that petitioner found involved in eleven more criminal cases but those cases are not of similar nature.

9. Taking note of aforesaid submission as raised by learned A.P.P., it is pointed out by learned counsel for the petitioner that in maximum of cases the name of petitioner transpired only on the basis of confessional statement and ordinarily the bail of petitioner should not be denied, if petitioner deserves it. In support, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Prabhakar Tiwari v. State of Uttar Pradesh and Anr. [(2020) 11 SCC 648]**.

10. Let it be so, considering the slow progress of trial that despite of remaining in custody for about two years and seven months, only two charge-sheeted witnesses were examined out of eight, *prima facie* appears defeating the right of speedy trial of accused/petitioner, suggesting that same is not likely to be concluded in near future, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two



sureties of the like amount each to the satisfaction of learned Special Judge, Sitamarhi, in connection with Bairgania P.S. Case No. 02 of 2023, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”) and further condition that:

- (I) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.
- (ii) If there is any deliberate attempt on behalf of the petitioner to delay the trial, the State shall be at liberty to press before the learned trial court itself for cancellation of bail bond of the petitioner, where appropriate order can be passed after giving fair opportunity to the petitioner.

(Chandra Shekhar Jha, J)

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