

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4632 of 2025

Arising Out of PS. Case No.-1 Year-2024 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

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Murari Prasad Yadav, S/o Late Harbans Yadav, R/o village - Sharifganj, P.S. -
Malsalami, Distt. - Patna

... .. Petitioner

Versus

Narcotics Control Bureau, D and E Block, 4th Floor, Karpoori Thakur Sadan,
CGO Complex, Rajiv Nagar, Patna-25.

... .. Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Senior Advocate Mr. Jay Ram Prasad, Advocate
For the NCB	:	Ms. Shail Kumari, CGC

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

8 05-08-2025 Heard learned counsel for the petitioner and learned

Central Government Counsel appearing for the Union of

India/NCB.

2. The accused/petitioner seeks bail in connection

with NCB Patna Case No.NCB/PZU/V/01/2024 registered for

the offence punishable under Sections 8(c) read with Sections

20(b)(ii)(C), 25 and 29 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (in short 'NDPS Act').

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

in custody since 26.01.2024.

4. Allegation against the petitioner is to have in

possession of 398 kgs of *ganja*, which was said to be



recovered from a truck bearing No. WB 11C 4751, where petitioner was the driver.

5. It is submitted by Mr. Rajesh Kumar Singh, learned senior counsel while arguing on behalf of the petitioner that petitioner was the driver of the alleged truck from where the alleged contraband was said to be recovered. It is submitted that still FSL report in this matter could not be obtained by the investigating agency and despite of same, the charge in this case was framed by learned trial court on 09.07.2025. It is submitted that as petitioner was driver, it cannot be said that he was under knowledge *qua* carrying the consignment of alleged contraband and, therefore, there is no question regarding culpable mental state in view of Section 35 of the NDPS Act as to further import rigorous provision as available under Section 37 of the NDPS Act. It is further pointed out the mandatory provisions regarding search, seizure and sampling (S.S.S.) not appears to be followed in present case and on this score alone, the petitioner deserves bail. While concluding argument, it is submitted that investigation of this case is completed, for which, charge-



sheet has already submitted and, as such, there is no chance of tampering with the evidence. The petitioner, being senior citizen aged about 71 years old, is a man of clean antecedent.

6. Ms. Shail Kumari, learned Central Government Counsel appearing for Narcotics Control Bureau (in short 'NCB') while opposing the prayer for bail submitted that during the investigation, this petitioner has categorically stated that the consignment was well within his knowledge and it was to deliver to one Rohit near to zero mile, Patna. It is further pointed out that possession for a moment is sufficient to attract culpable mental state in view of Section 35 of the NDPS Act and, therefore, it cannot be said that to import the rigors of Section 37 of the NDPS Act is not applicable. It is pointed out that recovered quantity is much more than commercial quantity i.e. 398 kg of contraband/*ganja*. It is also pointed out that on spot itself, preliminary test was done through D.D. Kit and the seized contraband, which was looking like *ganja* was confirmed to be *ganja* and, therefore, merely in want of FSL report, it cannot be said that it is a case of bail or any charge framed against



petitioner under NDPS Act *prima facie* bad in eyes of law for the reason that even a grave suspicion is sufficient for framing of charge, which is available in present case.

7. Taking note of aforesaid submissions and position of law, as *prima facie* it appears that petitioner being driver was aware about carrying the consignment of huge quantity of *ganja*, which is about 398 kg, where the provision of Section 37 of the NDPS Act creates a bar to grant bail in case of such recovery of commercial quantity of contraband, accordingly, the prayer of bail of petitioner is rejected herewith, for the present.

8. However, taking note of custody period of petitioner, as he remained in custody since 26.01.2024, the learned trial court is directed to expedite the trial of petitioner preferably within nine months as of now.

(Chandra Shekhar Jha, J.)

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