

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8247 of 2026

Arising Out of PS. Case No.-192 Year-2025 Thana- AMAS District- Gaya

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Pokar Ram Son of Pardama Ram R/o Femlai Station, P.S. - Panwara,
Badmer(Rajasthan), A/P Baba Ramdev Line Hotel Gangati, P.S. - Amas, Dist.
- Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Tilak Sao, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

4 05-05-2026 Heard the learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner seeks bail in connection with Amas P.S.
Case No. 192 of 2025 registered for the offences punishable under
Section(s) 8, 18(C), 17(C) of NDPS Act.

3. The petitioner was arrested on the spot and he was
driver of the vehicle from which a total of 225.02 Kgs Doda Powder
was recovered.

4. Learned counsel for the petitioner argues that charge
sheet has been submitted without obtaining the FSL Report of the
seized substance and thus it amounts to an incomplete charge sheet
and the petitioner can be given benefits of Section 167.

5. The question here is not whether this is an incomplete
charge sheet entitling the petitioner to bail but whether in case of
commercial quantity the petitioner is entitled to bail. In continuation
of the material already placed on record through the chargesheet, it is
equally pertinent to note the legal permissibility of the prosecution to



file additional documents at a later stage. A closer reading of sub-section (5) and (8) of Section 173 makes it manifestly clear that there is no bar on the investigating agency from subsequently placing on record additional documents that have been relied upon by the prosecution. The Apex Court in ***Central Bureau of Investigation v. R.S. Pai*** reported in (2002) 5 SCC 82, has held that the provisions of sub-section (5) of Section 173 are directory rather than being mandatory. The relevant excerpt of the judgment read as under:

7. From the aforesaid sub-sections, it is apparent that normally, the investigating officer is required to produce all the relevant documents at the time of submitting the charge-sheet. At the same time, as there is no specific prohibition, it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or the charge-sheet, it is always open to the investigating officer to produce the same with the permission of the court. In our view, considering the preliminary stage of prosecution and the context in which the police officer is required to forward to the Magistrate all the documents or the relevant extracts thereof on which the prosecution proposes to rely, the word "shall" used in sub-section (5) cannot be interpreted as mandatory, but as directory. Normally, the documents gathered during the investigation upon which the prosecution wants to rely are required to be forwarded to the Magistrate, but if there is some omission, it would not mean that the remaining documents cannot be produced subsequently. Analogous provision under Section 173(4) of the Code of Criminal Procedure, 1898 was considered by this Court in Narayan Rao v. State of A.P. [AIR 1957 SC 737 : 1958 SCR 283 : 1957 Cri LJ 1320] (SCR at p. 293) and it was held that the word "shall" in sub-section (4) of Section 173 and



sub-section (3) of Section 207-A is not mandatory but only directory. Further, the scheme of sub-section (8) of Section 173 also makes it abundantly clear that even after the charge-sheet is submitted, further investigation, if called for, is not precluded. If further investigation is not precluded then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to the investigation. In such cases, there cannot be any prejudice to the accused. Hence, the impugned order passed by the Special Court cannot be sustained.

6. The Hon'ble High Court of Delhi rendered in the case of ***Rahimullah Rahimi vs. State of NCT Delhi*** dated passed in CRL. REV. P. No. 163 of 20246 & CRL. M.A. No. 2474 of 2024 in para 36 it is held as under:-

“36. In view of the settled position of law and the dictum laid down by the Apex Court, this Court does not find any reason to interfere with the learned Trial Court's order rejecting the Petitioner's default bail application. As long as the chargesheet is deemed to be complete within the meaning of clause (b) of sub-section (1) of Section 190 read with sub-section (1) of Section 173 of the Cr.P.C. and enables a magistrate to lawfully take cognizance of an offence, it would not be deemed to be incomplete. It would most certainly not be “incomplete” because the CFSL report is not filed with it. Thus, the chargesheet filed on 28.02.2023 was a complete chargesheet in terms of sub-section (2) and (5) Section 173 and as soon as it was filed, the statutory period stood tolled, and the right of the Petitioner to default bail ceased to exist and became unenforceable. Thus, the question of default bail under Section 36A of the NDPS Act with sub-section (2) of Section 167 of



the Cr.P.C. would not arise at all”.

7. Learned A.P.P. for the State has vehemently opposed the prayer for bail of the petitioner.

8. Pursuant to the order passed in *Hanif Ansari vs. State (NCT of Delhi)* reported in *2024 SCC OnLine SC 537* the matter has been referred to the larger bench by the Supreme Court and the same is under consideration.

9. Accordingly, prayer for bail of the petitioner is hereby rejected.

10. It is made clear that any observation made herein is *prima facie* in nature and limited solely for the purpose of adjudication of the present bail application. Such observations shall not be construed as an expression on the merits of the case and shall not influence the trial or any other proceedings in any manner.

(Ansul, J)

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