

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14682 of 2025

Arising Out of PS. Case No.-209 Year-2024 Thana- SONBERSA District- Sitamarhi

Rahul S/O Sri Prahlad R/O Village - Fakauli P. S. - Awatarnagar Dist. - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate

Mr. Sanjay Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

9 16-03-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under Sections 8 & 20(b) (ii)(c) of the NDPS Act.

3. The case of the prosecution, in short, is that altogether 80 kg of ganja was recovered from the vehicle which was being driven by the petitioner.

4. Learned counsel for the petitioner has submitted that his prayer is two fold; first is that nothing has been recovered from his possession and second is that he was having no knowledge about the alleged contraband. It has further been submitted by learned counsel for the petitioner that petitioner is only the driver and he was only carrying the consignment. It has



further been submitted by learned counsel for the petitioner that in this case the charge-sheet was filed without the FSL report and for showing this he has filed a supplementary affidavit in which he has annexed the entire order sheet of the learned trial court. From perusal of the said order it transpires that the charge-sheet was filed on 13.01.2025 whereas FSL report was received in the trial court on 21.06.2025. Learned counsel for the petitioner has submitted that charge-sheet was filed by the I.O. prior to the FSL report. Learned counsel for the petitioner has further submitted that the petitioner is having no criminal antecedent and he is in custody since 21.07.2024.

5. Learned counsel for the petitioner has relied on an order of this Court passed in Cr. Misc. No. 84487 of 2024 and in that order, this court has relied on an order of the learned co-ordinate Bench of this Court passed in Cr. Misc. No. 65898 of 2023 wherein the learned co-ordinate Bench has opined that from reading of Section 36(a) sub-clause 4 of the NDPS Act, it appears that in the case of offence punishable under Section 19 or Section 24 or Section 27(a) or for offences involving commercial quantity, the charge-sheet can be submitted within 180 days and if the charge-sheet is not submitted within 180 days, the accused person is entitled for default bail. The proviso



to Section 37(a) speaks that public prosecutor may take an extension of time for filing the charge-sheet and 180 days time can be extended for a period up to one year. After the public prosecutor files that progress report of the investigation and gives specific reasons for detention of the accused beyond the said period of 180 days. In the present case, the Special Public Prosecutor has not filed any application for extension of period of the charge-sheet and the charge-sheet as per the contention of the petitioner has been filed without FSL report.

6. In the case of **Rabi Prakash vs. the State of Odisha**, Hon'ble Supreme Court has held that the prolonged incarceration generally militate against the most precious fundamental right guaranteed under Article 21 of the Constitution of India and in such situation, the conditional liberty must override the statutory embargo created under Section 37 sub-clause 1(b) of the NDPS Act. The charge-sheet filed without *FSL* report does not *ipso facto* creates any embargo against the fundamental right of a citizen enshrined in Article 21 of the Indian Constitution.

7. Learned APP appearing for the State has vehemently opposed the prayer of regular bail.

8. Having heard learned counsel for the parties and



considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Sonbarsa P.S. Case No.209 of 2024 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Sitamarhi.

(Ashok Kumar Pandey, J)

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