

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17801 of 2026

Arising Out of PS. Case No.-189 Year-2024 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Pankaj Yadav S/o Bilayati Yadav R/o Village- Bari Balia, Ward No.06, P.S-
Baliya, Dist- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

3 26-03-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for bail in connection with NDPS Case No.61 of 2024 arising out of CheriyaBariyarpur P.S. Case No.189 of 2024 registered for the offence punishable under Sections 8, 20(b)(ii)(c), 25 and 29 of the NDPS Act.

3. The case of the prosecution, in short, is that from the rear seat of a tempo, altogether 50 kg of *ganja* was recovered.

4. Learned counsel appearing on behalf of the petitioner has submitted that petitioner is neither the owner nor the driver of the tempo. He was just sitting on the rear seat. It



has further been submitted that nothing has been recovered from the possession of this petitioner. Learned counsel for the petitioner has further submitted that the witnesses of the seizure list are police personnel and police has not complied Section 105 of the BNSS while making seizure. Learned counsel for the petitioner has further submitted tha the petitioner is in judicial custody since 28.10.2024.

5. Learned counsel for the petitioner has relied on a judgment of the Hon'ble Supreme Court in the case of ***Divyas Bardewa vs. Narcotic Control Bureau*** wherein the Hon'ble Supreme Court has held as under :-

“That aspect of the matter, at this juncture, need not be gone into, since the said issue is pending consideration in a batch of petitions which would take sometime for hearing and this petition is also to be considered along with those petitions. For the present, we note, that even in the other pending cases before this Court, in SLP(Crl) Nos. 8164-8166/2021 and other similar petitions, without reference to the statutory bail, taking note that the petitioners have been in custody for sometime and the trial would take some more time to conclude, we had directed grant of bail to the petitioners.”

6. Learned counsel for the petitioner has submitted that in this case charge-sheet was filed without FSL report



which is apparent from the charge-sheet which has been filed by him through supplementary affidavit wherein the I.O. has categorically recorded that the contraband has been sent to Kolkata and Bhagalpur FSL but the FSL report is still not available.

7. In this regard, 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.

8. Learned Additional Public Prosecutor for the State has vehemently opposed the bail.

9. 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 enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the court of learned Additional Session Judge-1st-cum-Special Judge, NDPS Act, Begusarai in connection with NDPS Case No.61 of 2024 arising out of Cheriabariyarpur P.S. Case No.189 of 2024.

(Ashok Kumar Pandey, J)

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