

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13155 of 2026

Arising Out of PS. Case No.-264 Year-2024 Thana- LALGANJ District- Vaishali

Chandan Kumar @ Chandan Rai Son of Ramashankar Ray @ Rama Shankar Rai Resident of Village - Agarpur, P.S. - Lalganj, Dist. - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

3 08-04-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has prayed for bail in connection with Lalganj P.S. Case No. 264 of 2024 registered for the offence punishable under Section 111 of the BNS, Sections 25(1-B)a, 26 and 35 of the Arms Act and Sections 8, 20(B),(ii) (B) of the N.D.P.S. Act.

3. The case of the prosecution, in short, is that from the possession of the petitioner, 1.050 kg of *charas* and one loaded country made pistol with live cartridge were recovered.

4. Learned counsel appearing on behalf of the petitioner has submitted that petitioner is innocent and has committed no offence. He has been falsely implicated in this case. He also submits that nothing has been recovered from the



possession of the petitioner. The witnesses of the seizure list are police personnel and the police have not complied with Section 105 of the BNSS while making the seizure. He further submits that a supplementary affidavit has been filed by the petitioner and from perusal of which it will transpire that in this case, charge sheet was filed on 21.02.2025 and cognizance has been taken on 10.03.2025, whereas the *FSL* report was received in the learned trial court on 26.09.2025. This goes to show that the charge sheet was filed prior to the *FSL* report and cognizance was also taken prior to the *FSL* report. Moreover, the petitioner is languishing in judicial custody since 20.08.2024.

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. Learned APP has submitted that the petitioner is having criminal antecedent of



seven cases.

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 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 learned Sessions Judge, Vaishali at Hajipur in connection with Lalganj P.S. Case No. 264 of 2024.

(Ashok Kumar Pandey, J)

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