

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17118 of 2026

Arising Out of PS. Case No.-62 Year-2024 Thana- NARPATGANJ District- Araria

Deepak Kumar @ Dipak Kumar Son of Teerath Lal Kamat Resident of
Village - Baelipatti, P.S. - Birpur, Dist. - Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate
For the Opposite Party/s : Mrs. Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

3 21-04-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for bail in connection with Narpatganj P.S. Case No. 62 of 2024 registered for the offence punishable under Sections 21(C), 22 and 23 of the N.D.P.S. Act.

3. The case of the prosecution, in short, is that two persons having sacks were coming towards India from the Nepal border. One of them managed to escape seeing the police, whereas the other was apprehended, and he was identified as the petitioner, and it is alleged that from the sack altogether 28.660 kg of *ganja* was 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 earlier the bail petition of this petitioner was twice rejected *vide* orders dated 10.09.2024 and 22.07.2025. He also submits that in both the orders, the trial court was directed to conclude the trial of the petitioner at the earliest. Stage of trial has been called from the learned trial court and from perusal of which it is clear that till today no witness has been examined. He also submits that in this case police submitted charge sheet on 01.05.2024, cognizance was taken on 04.05.2024, whereas the *FSL* report was received in the trial court on 04.03.2025. He also submits that in this case the *FSL* report has been submitted even after the cognizance. Moreover, a statement has been made in para 3 of the petition that petitioner has no criminal antecedent and he is languishing in judicial custody since 04.02.2024.

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.

6. The prayer of learned counsel for the petitioner is of two fold first is that nothing has been recovered from the possession of the petitioner and second is that the chargesheet was filed and cognizance was taken much prior to the FSL report.

7. The application for bail is opposed by learned APP for the State.

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 District & Sessions Judge-IV, Araria in connection with Narpatganj P.S. Case No. 62 of 2024.

(Ashok Kumar Pandey, J)

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