

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15434 of 2026

Arising Out of PS. Case No.-189 Year-2024 Thana- BELA District- Sitamarhi

Sushila Devi W/O Rajaram Mandal R/O Village- Gamhariya, Ward No.-05,
P.S- Bela, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate Mr. Shashank Shekhar, Advocate Mr. Anjani Kumar, Advocate
For the Opposite Party/s :		Mr. Dr.Mrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

3 16-04-2026 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 and 20(b) (ii)(c) of the Narcotic Drugs and Psychotropic Substances (in short 'NDPS') Act, 1985.

3. The case of the prosecution, in short, is that from the hut of the petitioner, altogether 191.3 kg of ganja was recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Learned counsel for the petitioner has submitted that nothing has been recovered from the possession of this petitioner and the



petitioner is a lady. From perusal of the seizure list, it will transpire that the seizure list was prepared on 09.08.2024 whereas the information was received to police at 10.08.2024 at 1:30 AM. Learned counsel has submitted that the seizure was prepared prior to the information. He has further submitted that the recovery has been made from the hut not from the house. He has further submitted that police has submitted charge sheet without the FSL report which is apparent from the charge sheet. The FSL report is of 14.11.2024 whereas the charge-sheet was filed on 08.10.2024. The sample was sent to the FSL after delay of one month. Moreover, the petitioner is languishing in judicial custody since 10.08.2024 having no criminal antecedent.

5. Learned counsel for the petitioner has further 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 v. 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 counsel has also relied on an order of the Hon'ble Supreme Court passed in Special Leave to Appeal



(Crl.) No. 7049 of 2025.

8. Learned APP for the State has vehemently opposed the prayer for bail and has submitted that in this case out of eight witnesses, six have been examined.

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 released on bail in connection with Bela P.S. Case No. 189 of 2024 on furnishing bail bond of 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned District and Additional Sessions Judge-II, Sitamarhi.

(Ashok Kumar Pandey, J)

Shubham/-

U		T	
---	--	---	--

