

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38319 of 2026

Arising Out of PS. Case No.-40 Year-2026 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Akash Kumar Son of Dayanand yadav @ Sadanand Yadav R/O-Village -
Raghunathpur, Ward No.04 ,P.S.- Sahebpur Kamal, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh, Advocate
For the Opposite Party/s : Mr. Mohammad Sufyan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-06-2026 Heard Mr. Ranjeet Kumar Singh, learned counsel

for the petitioner and Mr. Mohammad Sufyan, learned A.P.P.

for the State.

2. The petitioner seeks bail, who is in custody since
22.03.2026, in connection with Muffasil P.S. Case No. 40 of
2026, FIR dated 22.03.2026 registered for the offence under
Sections 2021(c) of the NDPS Act.

3. Recovery is of 408 gram of Smack.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. The allegation as alleged in the
FIR is false and fabricated and the petitioner has not committed
any offence as alleged in the FIR. He further submits that it



appears from the FIR and seizure list that 408 gram Smack was recovered from the possession of co-accused, Mitthu Kumar and nothing has been recovered from the conscious possession of this petitioner. The petitioner is in custody since 22.03.2026.

5. Learned APP for the State, on the other hand, on the basis of the material available on the record, has vehemently opposed the prayer for bail of the petitioner and submits that altogether 408 gram of Smack has been recovered from the possession co-accused person and this petitioner was apprehended along with the co-accused person and it appears from the FIR that huge quantity of Smack was recovered which is more than commercial quantity so there is embargo under Section 37 of the NDPS Act to grant privilege of bail to the petitioner.

6. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that the petitioner has not committed the offence and in the event of release he would not commit similar offence.

7. The issue was considered by the Hon'ble



Supreme Court in the case of **State of Kerala and Ors Vs. Rajesh & Ors**, reported in **2020(12) SCC 122** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal** reported in **AIR 2022 SC 3444** and recently decided the judgment in the case of **Union of India Vs. Ajay Kumar Singh @ Pappu**, reported in **2023 SCC OnLine SC 346**.

8. The recovery of huge quantity of *Smack* from possession of the co-accused person along with whom the petitioner was apprehended, would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

9. Considering the aforesaid facts and nature of allegation against the petitioner, I am not inclined to enlarge the petitioner on bail in connection with Muffasil P.S. Case No. 40 of 2026, pending in the court of learned Special Judge (N.D.P.S. Act), Khagaria.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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