

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63463 of 2025**

Arising Out of PS. Case No.-43 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Biresh @ Viresh S/O Haram singh @ Horam @ Oram @ Horam Singh
Resident Of Village- Asdharmai, P.S.- Usawa, Dist.- Badayu (Uttar Pradesh)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aryan Singh, Adv.
For the Opposite Party/s : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 09-01-2026 Heard the learned Advocate for the petitioner and the

learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with N.D.P.S. Case No. 43 of 2021, registered for
the offence punishable under Sections 8 / 20(b)(ii)(c) of the
N.D.P.S. Act.

3. This is the second attempt made on behalf of the
petitioner, as earlier the prayer for bail of the petitioner along
with one co-accused *Gobind* was negated by this Court in Cr.
Misc. No. 56534 of 2021 vide order dated 17.10.2022, after
taking into consideration that the petitioner along with co-
accused was apprehended; who were carrying consignment in a
truck from Ramgarh (Jharkhand) and the same was to be handed
over to one *Hakim Singh* at Agra (Uttar Pradesh). In course of



search, 180 Kg ganja was recovered.

4. Learned Advocate for the petitioner, at the outset, submits that the prayer for bail of the petitioner was rejected on merit and, as such, he is not making any such submission touching about the merit of the case. However, certain subsequent development has taken place, inasmuch as, co-accused *Gobind*, in the meanwhile, had approached the Hon'ble Supreme Court in Special Leave Petition (Criminal) Diary No. 30026 of 2024 and the Court having taken note of the prolonged incarceration and also the fact that the trial had not commenced due to the fault of the prosecution, extended liberty to the petitioner to approach the trial Court for grant of bail.

5. Notwithstanding the aforesaid liberty extended to the co-accused by the Hon'ble Apex Court, when the trial Court has refused to extend the privilege of bail, he moved before this Court in Cr. Misc. No. 25787 of 2025 and this Court placing reliance upon the decision rendered in *Hussainara Khatoon & Ors. Vs. Home Secretary, State of Bihar [(1980) 1 SCC 81]*; *Mohd Muslim @ Hussain Vs. State (NCT of Delhi) [2023 SCC OnLine SC 352]* and further in *Satender Kumar Antil Vs. Central Bureau of Investigation & Anr. [(2022) 10 SCC 51]* has granted bail vide order dated 27.06.2025. It is further



contended that now the petitioner has been incarcerated since 19.04.2021 and he is said to be driver of the truck, in question, from where the recovery has been made.

6. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner was the driver of the truck, in question, from where 180 Kg of *ganja* was recovered, which is admittedly a commercial quantity and, as such, the rigors provided under Section 37 of the NDPS Act as well as the caution made by the Hon'ble Supreme Court to ascertain as to whether there is reasonable ground for believing that the accused is not guilty of the offence and further he is not likely to commit offence under the said Act is mandatory. It is also contended that the trial is going on and the same would be completed in due course.

7. Having considered the submissions advanced by learned Advocate for the respective parties and taking note of the fact that identically situated person, who was also apprehended along with the petitioner in the truck, from where the entire recovery has been made, extended the privilege of bail by this Court in Cr. Misc. No. 25787 of 2025 and now the petitioner has been incarcerated since 19.04.2021 and more than four year and 8 months have been lapsed and there is no



likelihood of conclusion of trial in near future; besides the petitioner having fair antecedent, as also the mandate of the Apex Court, referred in the foregoing paragraphs, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty-five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Additional Sessions Judge 1st, Gaya in connection with N.D.P.S. Case No. 43 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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