

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59831 of 2025

Arising Out of PS. Case No.-39 Year-2024 Thana- Basmatia District- Araria

Shyam Kumar Mehta S/O Nandlal Mehta R/O Village- Kosikapur,
Banelipatti, Ward No. 13, P.S- Birpur, Distt.- Supaul Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate
For the Opposite Party/s : Mr. Suman Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

7 24-02-2026 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 N.D.P.S. Act.

3. The case of the prosecution, in short, is that one *Scorpio* vehicle was intercepted and in that *Scorpio* on the rear seat altogether 98 kg of *ganja* was recovered.

4. Learned counsel for the petitioner submits that the petitioner is the owner and driver of the vehicle. It has further been submitted that nothing has been recovered from the possession of this petitioner. Learned counsel for the petitioner has further submitted that the witnesses of the seizure list are police personnel and police has not complied Section 105 of the BNSS while making seizure. It has further been submitted that



from perusal of the supplementary diary it will transpire that the I.O. has received the FSL report regarding the contraband on 30.05.2025. It has further been submitted that prior to this date, cognizance was taken by the learned trial court and even charges were framed against the petitioner. It has further been submitted that the I.O. has filed charge-sheet without FSL report. Learned counsel for the petitioner has submitted that the petitioner is having no criminal antecedent and he is in judicial custody since 23.09.2024.

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 for the State has vehemently opposed the bail.

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 released on bail in connection with Basmatiya P.S. Case No. 39 of 2024 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS Act, Araria.

(Ashok Kumar Pandey, J)

durgesh/-

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

