

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66163 of 2025

Arising Out of PS. Case No.-413 Year-2024 Thana- KESARIA District- East Champaran

Govinda Sahani @ Govind Sahani @ Gobinda Sahani Son of Jagdish Sahani
Resident of village- Bhatha, (Bhatahan), P.S.- Muffasil, District- East
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mrs. Madhuri Lata, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

6 12-02-2026 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 111, 317(4) & 317(5) of the BNS and under Sections 25(1-B)a, 26 & 35 of the Arms Act and under Sections 20, 22 and 23 of the NDPS Act.

3. The case of the prosecution, in short, is that from the possession of this petitioner a country made pistol was recovered and on being asked he disclosed that he has concealed charas in the bushes and from the bushes charas like substance was found and upon weighing of two packets, it was found 1.020 kg.



4. Learned counsel for the petitioner submits that in this case nothing has been recovered from the possession of this petitioner; recovery, if any, has been made from the bushes. It has further been submitted that in this case police has submitted the charge-sheet without the FSL and from perusal of the FIR itself it is clear that police has stated that charas like substance was recovered from the bushes. A report was called from the learned trial court and learned trial court has reported vide its report dated 20.01.2026 that the charge-sheet has been submitted without FSL report. Learned counsel for the petitioner has submitted that his prayer is two fold; first is that nothing has been recovered from the possession of the petitioner and second is that charge-sheet has been filed without FSL. Learned counsel for the petitioner has submitted that petitioner is languishing in judicial custody since 12.12.2024.

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 appearing for the State has vehemently opposed the prayer of regular bail and has submitted that the petitioner is having criminal antecedent of fourteen cases.

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 with the condition that the petitioner shall co-operate in the trial and shall remain physically present on each and every date in the trial court and shall mark his attendance weekly in Muffasil P.S. The above named petitioner is directed to be released on bail in connection with NDPS Case No. 115 of 2024 arising out of Kesariya P.S. Case No.413 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, East Champaran, Motihari.

(Ashok Kumar Pandey, J)

durgesh/-

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

