

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80855 of 2025

Arising Out of PS. Case No.-57 Year-2025 Thana- GHURNA District- Araria

Shivam Kumar @ Shivam Kumar Sah Son of Arjun Sah R/o Village-
Devanganj, Ward No. 05, P.S.- Devcanganj, District- Sunsari (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Aggarawal, Sr. Advocate Mr.Aditya Raj, Advocate Mr. Kumar Raj Deep, Advocate
For the Opposite Party/s :		Mr.Aditya Narayan Singh.1

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

4 29-01-2026 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 section 317 (5) of the BNS, 2023 and sections 8/20 (b) (ii) (c) of the N.D.P.S. Act.

3. The case of the prosecution is that the police received information that certain persons are carrying contraband in two four wheeler vehicles. The driver of the dark gray colour *scorpio* managed to escape. Two persons were found in the white *scorpio*; one of them was sitting in the driver’s seat and was identified as Tarun Kumar Yadav and the other was Shivam Kumar. From the white colour *scorpio* vehicle 24 K.G and 12 KG of ‘ganja’ like substance were



recovered and from the Grey Colour *scorpio* vehicle, 24 K.G. and 14.500 K.G, totalling 74.500 K.G. of '*ganja*' like substance were recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. It is further submitted that a bare perusal of the FIR, it is clear that the petitioner was sitting on the side seat of the driver. It is further submitted that the petitioner is neither the driver nor the owner of the vehicle, in question and that nothing has been recovered from the conscious possession of this petitioner. It is also evident from the FIR that the raiding was also not having a kit to verify as to whether the seized material was '*ganja*' or not, i.e. why it has been written described in the FIR as '*ganja*' like substances. It is further submitted that from a perusal of charge sheet, it is clear that the same was filed prior to the receipt of FSL report.

5. From perusal of the record of this case, it appears that Investigating Officer (I.O.) submitted charge sheet on 17.08.2025 and thereafter, continued with supplementary investigation. A perusal of the FSL report shows that the same was signed in the laboratory on 14.10.2025 much after the filing of the charge sheet.



6. In this regard, learned counsel for the petitioner has relied an order of co-ordinate Bench of this Court passed in **Cr. Misc. No. 65898 of 2023**, wherein the 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.*

7. It is further submitted that under the provision of law, investigation of the case is required to be completed within a period of six months which may be extended for every six months on the prayer of Special Public Prosecutor, however, no such extension was sought or granted in the present case.

8. Learned counsel for the petitioner has further submitted that the petitioner is languishing in judicial custody



since 18.08.2025. Moreover, similarly situated other co-accused person has already been granted bail by this Court vide order dated 03.09.2025 passed in Cr. Misc. No. 38414 of 2025.

9. Learned APP appearing for the State has vehemently opposed the prayer of regular bail.

10. 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 Ghurna P.S. Case No. 57 of 2025 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)

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