

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86339 of 2025

Arising Out of PS. Case No.-102 Year-2025 Thana- DHANAHA District- West Champaran

Vijay Chaudhary S/O Late Ram Ratan Chaudhary R/O Village - Bodhi
Chhapra, Police Station- Hanumanganj, District - Kushi Nagar, Uttar Pradesh

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Vijay Kr Singh No. 1, Advocate

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 10-02-2026 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Dhanaha
P.S. Case No. 102 of 2025 registered for the offence under
Sections 8, 20(b)(ii)(c) and 29 of the N.D.P.S. Act and
Sections 25(1-b)a, 26 and 35 of the Arms Act.

3. The petitioner is named in the F.I.R. and is in
custody since 02.04.2025.

4. As per the FIR, petitioner alongwith co-accused
persons alleged to have in possession of 1 kg 5 gms of
charas/contraband in two different packets rapped in brown
paper alongwith one country-made pistol and three live
cartridges.



5. Learned counsel appearing on behalf of the petitioner submitted that the commercial quantity for the alleged contraband is one kilogram. It is submitted that weight shown is marginally high to make it commercial i.e. 1 kg 5 gms. It is pointed out that the contraband was found rapped in brown paper in two separate packets and therefore any weight of brown paper for two different packets be taken into consideration *prima facie* the actual quantity of contraband comes below commercial quantity, therefore, implication of Section 37 of N.D.P.S. Act appears not applicable in the present case. It is pointed that after investigation police submitted charge-sheet in the present case through charge-sheet no. 274/2025 dated 15.07.2025, upon perusal of which it transpires the same was submitted incomplete without obtaining F.S.L. report.

6. In this context, it is submitted that this matter is pending before Hon'ble Supreme Court for consideration in the is matter of **Divyas Bardewa vs. Narcotics Control Bureau**, reported in **2023 SCC Online SC 742**. and, therefore, till outcome of the said case, the petitioner



deserves to be enlarged on bail.

7. While explaining criminal antecedent, it is submitted that petitioner is found involved in seven more criminal cases where he is on bail. It is submitted that in maximum of these cases the petitioner was implicated out of confessional statement or suspicion.

8. It is submitted that the merit of this case is otherwise convincing but criminal antecedent should not be the sole criteria to decline the prayer of bail for which learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Prabhakar Tewari vs. State of Uttar Pradesh and Anr.*** reported in ***(2020) 11 SCC 648.***

9. While concluding argument, it is submitted that investigation of these cases are completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

10. Learned APP could not disputed the aforesaid facts and submissions advanced on behalf of the learned counsel for the petitioner.

11. In view of aforesaid factual submission as



recovered quantity *prima-facie* appears doubtful to the extent of commercial quantity shown as discussed aforesaid, coupled with fact that charge-sheet appears incomplete without F.S.L. report where petitioner remains in custody since 02.04.2025, accordingly, petitioner above named, is directed to be released on bail in connection with Dhanaha P.S. Case No. 102 of 2025 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (N.D.P.S.), West Champaran, Bettiah /concerned court, subject to the conditions as mentioned under Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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