

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1549 of 2026

Arising Out of PS. Case No.-115 Year-2025 Thana- DUMARIAGHAT District- East
Champaran

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Saroj Kumar S/O Bharat Yadav Resident of village- Bhaudwa Tola, Ward no.
9, P.S.- Nakardei, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

2 29-01-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for regular bail in connection with N.D.P.S. Case No. 78 of 2025 arising out of Dumariyaghat P.S. Case No. 115 of 2025 registered for the offence punishable under Sections 8 and 20(B)(II)(C) of the Narcotic Drugs and Psychotropic Substance (in short ‘N.D.P.S.’) Act, 1985.

3. The case of the prosecution, in short, is that police received a secret information that contraband is being carried on a four wheeler. On this information police started checking the vehicles. When white colored car having Registration No. BR 09L2197 was coming in a high speed. It had only one person in



the car. The vehicle was stopped and the driver started fleeing away who was apprehended. He was identified as the petitioner and he disclosed that he is going to sell the *charas* like material which has been purchased from Nepal and is being carried to Haryana and from the car altogether 5.600 kg *charas* like contraband was recovered.

4. Learned counsel for the petitioner has submitted that nothing has been recovered from the possession of the petitioner. Recovery has been made from the car. As per the case of the prosecution, the petitioner has fled out of the car and was apprehended. It has further been submitted that the petitioner is neither owner nor the driver of the car. The witnesses of the seizure list are police personnel. While making search police has not complied Section 105 of the BNSS. It has also been submitted that from perusal of the seizure list it will transpire that the seizure list does not bear signature of the petitioner, whereas the case of the prosecution is that the petitioner was apprehended there.

5. Learned counsel for the petitioner has further submitted that in this case police has submitted charge-sheet without the FSL report and from perusal of the FIR it is clear that the police party who has apprehended the petitioner was not



having any kit to detect as to whether the object which was recovered is *opium* or not. That is why in the FIR it is written that *opium* like substance was recovered. In this case, the charge-sheet was filed on 15.10.2025 and from perusal of the Annexure-2/1, the certified copy of the order sheet of the learned trial court.

6. It is clear that from perusal of the order dated 03.11.2025 that the learned trial court has directed the office to call for the report of FSL from the concerned office. Learned counsel for the petitioner has submitted that this order sheet goes to show that till 03.11.2025, the FSL report was not available. Order dated 01.11.2025 is very specific wherein there is endorsement to the effect that this record received on transferred from the court of learned Principal District & Sessions Judge, Motihari along with FIR case diary without FSL report. Learned counsel for the petitioner has further submitted that his prayer is two fold. First is that nothing has been recovered from the possession of this petitioner and second is that charge-sheet has been filed without FSL report.

7. Learned counsel for the petitioner has further submitted that this case is squarely covered with the order passed by the learned co-ordinate Bench of this Court in **Cr.**



Misc. No. 65898 of 2023, wherein the 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.

8. In the present case, the Additional Public Prosecutor for the State has not filed any application for extension of period of the charge-sheet and the charge-sheet as per the contention of the petitioners has been filed without FSL report.

9. Learned APP appearing for the State has 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 enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the court of learned Sessions Judge/Special Judge, East Champaran at Motihari in connection with N.D.P.S. Case No. 78 of 2025 arising out of Dumariyaghat P.S. Case No. 115 of 2025.

(Ashok Kumar Pandey, J)

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