

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS JUDGE-1st-
CUM-SPECIAL JUDGE (SC/ST, CHILDREN & NDPS ACT)
AURANGABAD (BIHAR)**

**Present: Vishawa Vibhuti Gupta, District & Additional Sessions Judge-1st-cum- Special Judge
(SC/ST, CHILDREN & NDPS ACT) Aurangabad, Bihar.**

REGULAR BAIL APPLICATION NO. 245 OF 2026

NCB CASE NO: 14 OF 2023

Bhishma Narayan Tiwary @ Guddu Tiwary, aged about 36 years, S/o- Ram Bihari Tiwary, R/o Mohalla-New Dilia, Ward No. 12, Near JJ College, PS-Town Thana Dehri, District-Rohtas(Bihar)

....Petitioner

Versus

State of Bihar

.... Prosecution

Appearance:

Learned Counsel for the accused-petitioner
Learned Counsel for the State

- Shri Mrityunjay Kumar Singh
- Md. Parvez Akhtar

Order with signature of the Court

**Dated
12.03.2026**

The regular bail application filed on behalf of the accused-petitioner **Bhishma Narayan Tiwary @ Guddu Tiwary** who is in judicial custody since 04.11.2023 in connection with NCB Case No. 14/2023 under Sections 8(c), 20(b) (ii) (c), 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. The case diary was called for and the same is available on the record. The copy of the same has already been served upon Ld. APP for the State. Upon being pressed the matter was heard.

The learned counsel by pressing the urge, reciting the contents of the prosecution case has contended that the petitioner is innocent and has committed no offence. He further submitted that the regular bail petition vide BP no. 1388 of 2023 filed by the accused has been rejected by this court of 25.11.023, thereafter the petitioner preferred Cr. Misc. No. 5709 of 2024 before the Hon'ble High Court, Patna which was rejected by order dated 08.05.2024. subsequently, the petitioner filed Cr. Misc. No. 61167 of 2024 before the Hon'ble High Court, Patna which was also rejected by order dated 23.08.2024. therefore, the petitioner filed Special Leave Petition(Criminal) Diary No. 5210 of 2025 before the Hon'ble Supreme Court which was dismissed on 14.02.2025. It is further submitted that the Hon'ble Supreme Court, while dismissing the Special Leave Petition(Criminal) Diary No. 5210 of 2025 vide order dated 14.02.2025 with liberty to renew the prayer before the court on the grounds that (a) In case of change in circumstances, (b) In the even the trial does not make reasonable progress within one year and (c) Provided the delay is not attributable to the petitioner. It is further submitted that the entire alleged recovery of 544 Kg. ganja has been

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effected from the truck, whereas the petitioner was merely travelling in a separate car and was neither the driver nor the owner of the said truck. . His alleged involvement is based on disclosure statement of the driver, which are inadmissible in evidence in view of the law laid down in Toofan Singh VS. State of Tamilnadu. There is no independent material connecting he petitioner with the seized contraband. As per the seizure memo and prosecution materials, the entire alleged recovery of ganja was effected from the truck, and not from the person, belongings or vehicle of the petitioner. No incriminating article, documents, cash, or contraband was recovered from him or at his instance. It is further submitted that the prosecution itself in para-27 of the complaint admits that the seized truck is owned by one Raj Kumar Yadav and not by the petitioner. It is further expedient to submit here that the prosecution case is further rendered doubtful due to the serious issue of the vehicle allegedly being plied with a fake number plate at the time of seizure. As per the statement of the registered owner in his reply to notice U/s-67 of the NDPS At, the truck bearing No. JH09 AD9827 as sold to another person on 02.12.2023. The owner has specifically stated that the truck intercepted by the NCB was running with a fake number plate. This fact raises a fundamental question regarding the true identity of the seized vehicle. In the absence of proper verification of the engine and chassis number, especially when it is recorded that they were found erased or tampered with mere reliance on the displayed registration plate becomes highly doubtful. It is further submitted that as per the prosecution story, the truck was intercepted at the check post and only driver namely Dilip Behra is shown to have been found in the vehicle. There is neither any reference to such person in the seizure memo nor any arrest, interrogation, or statement attributed to a co-driver. This unexplained silence assumes importance because the alleged contraband was concealed beneath sacks of rice bran in the truck, which should not have been handled by a single person alone. In cases, under the NDPS Act, the exact quantity of contraband is of paramount importance, as it directly affects the applicability of the stringent provisions of Section 37. The alleged supplier is stated to have disclosed that eh loaded 540 Kg. ganja in the truck whereas the prosecution in the search and seizure em emo, claims recovery of 544 Kgs of ganja from the very same vehicle. This material discrepancy in the alleged quantity goes to the root of the prosecution case. It is further submitted that the petitioner has remained in continuous judicial custody since 04.11.2023 and has undergone prolonged incarceration for a

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substantial period while the trial has not made reasonable progress, and such delay is not attributable to the petitioner in any manner. In view of the liberty granted by the Hon'ble Supreme Court and the prolonged custody of the petitioner without reasonable progress in trial, a clear and substantial change in circumstances has arisen, entitling the petitioner to be enlarged on bail in the interest of justice, The petitioner is innocent and prima facie there is no any offence made out against him and his name was implicated in this case under ill-will. The petitioner has no criminal history. There is no chance of tampering in evidence and for absconding of the petitioner. The petitioner undertakes to furnish sufficient sureties of bail bonds and he further undertakes to make himself available as and when required by the court. Hence, it has been prayed to grant bail to the applicant in any amount.

Per contra, the learned Special Public Prosecutor (NDPS) has contended that the applicant is named in the complaint(NCB case) and recovered of huge amount of ganja (544 Kgs) and the petitioner was arrested on the spot of place of recovery with a huge commercial quantity of ganja and earlier the bail petition on behalf of the accused-petitioner has also been rejected by the Hon'ble High Court, Patna and the Hon'ble Apex Court, thus, he does not deserve the bail.

Heard both the parties and perused the case record. The allegation against the petitioner is that NCB, Patna received secret information that a truck bearing No. JH09AD 9827 was transporting a huge quantity of ganja from Odisha via Daltongaj and was likely to enter Aurangabad(Bihar) at night. On 03.11.2023, at about 10:00 hrs. the suspected truck was intercepted by the NCB team and the driver of the said vehicle disclosed that ganja was concealed beneath sacks of rice bran loaded in the truck. He also disclosed that received Guddu Tiwary(accused-petitioner) was following the truck in a Tata Altroz Car bearing No. JH01EP 2297 and the supplier Ajay Sethi was travelling separately in a white Swift Desire Car. The person inside the Tata Altroz Car including the petitioner were arrested. Guddu Tiwary allegedly admitted that he was the receiver of the ganja. On perusal of the case record, it transpires that the bail petition of this very accused-petitioner has already been rejected twice by the Hon'ble High Court, Patna in Cr. Misc. No. 5709 of 2024 and Cr. Misc. No. 61167 of 2024 by order dated 08.05.2024 and 23.08.2024 and also by the Hon'ble Supreme Court of India vide Special Leave Petition(Criminal) Diary No. 5210 of 2025 by

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order dated 14.02.2025. The present petitioner is specifically named in the NCB case and is alleged to have been involved and recovery of huge amount of ganja (total 544 kgs.), which is a psychotropic substance covered under the provisions of the N.D.P.S Act, 1985. The allegations against the petitioner are nor vague in nature, rather specific in terms of role attributed to him in transporting of the contraband, and hence the benefit of bail cannot be extended. The rigors of Section 37 of the N.D.P.S Act are clearly attracted in this case and the bar under the said provision cannot be overlooked at this stage. Considering the gravity of the offence, the nature of allegation, and the fact that earlier the prayer for regular bail of the petitioner was rejected both by the Hon'ble High Court, Patna and by the Hon'ble Supreme Court of India. So, this Court is not inclined to enlarge the petitioner on bail. As such considering the whole issue in totality, this bail application of the accused-petitioner is hereby rejected. **Accordingly**, the prayer of the accused-petitioner namely **Bhishma Narayan Tiwary @ Guddu Tiwary** is **refused**.

Dictated by

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, CHILDREN & NDPS Act)
Aurangabad (Bihar)
Dated: 12.03.2026

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