

PRESS RELEASE

**REPORT OF NARCOTICS COMMISSIONER, CBN TO HON'BLE HIGH COURT,  
PATNA UNVEILS PRODUCTION OF FAKE FORENSIC TEST REPORTS IN  
NDPS CASES BEFORE COURTS IN BIHAR**

The Hon'ble High Court of Judicature at Patna vide Order dated 26.04.2010 in Cr. Misc. No. 6651 of 2010 has directed the Narcotics Commissioner of India, Central Bureau of Narcotics, Gwalior (M.P.) to hold a full fledged enquiry into the matter arising out of Harnaut PS case No.195/09 ( Radhey Prasad Chaurasia S/o Late Bhagat Chaurasia Vs. State of Bihar) under Section 20 and 22 of NDPS Act, 1985 relating to the procedure of sampling and submission of contrary test reports by Forensic Science Laboratory, Patna.

The brief fact of the case is that consequent upon recovery of a quantity of 274 kgs. of alleged Ganja from the residential premises of one Radhey Prasad Chaurasia s/o Late Bhagat Chaurasia, a case no. 195/09 was registered by Harnaut Police Station of district Biharsharif in the state of Bihar. Two persons namely Radhey Prasad Chaurasia and his son Arvind Kumar were arrested in the case under section 20/22 of NDPS Act on 18.08.2009. Both the persons filed bail applications separately before the Hon'ble High Court, Patna on the ground, inter-alia, that the test report of the sample opines that the exhibit was found not to be Ganja and produced certified copy of test report FSL no.1099/10 dated 06.01.2010. The test report was said to be sent by the FSL, Patna in original to the trial court. The bail application of Arvind Kumar was placed under Cr.Misc.No. 5940/2010 and a bench of the Hon'ble High Court Hon'ble justice Shri Navin Sinha granted bail to him. But the bail application of accused Radhey Prasad Chaurasia under Cr.Misc.No. 6651/2010 was placed before Hon'ble Justice Smt. Anjana Prakash. The Hon'ble Judge raised a doubt on the test report in view of recovery of such a huge quantity of Ganja and called for a report from the Director, Forensic Science Laboratory (FSL), Patna in this regard. The Director, FSL forwarded a test report under the same FSL no. 1099/2010 opining that the exhibit has been found to be Ganja. The Court raised suspicion over a couple of things in the entire episode including procedure of drawal of sample of recovery of narcotic substances. Subsequently, the Court directed the Narcotics Commissioner of India, Central Bureau of Narcotics, Gwalior to hold a full fledged inquiry in the matter and report to the Court about the result.

Central Bureau of Narcotics is one of oldest organisation dealing with interdiction of narcotic drugs & psychotropic substances in the country. The organisation is headed by the Narcotics Commissioner of India. Presently Smt. Jagjit Pavadia, a senior IRS Officer is the Narcotics Commissioner. In pursuance of the above direction, the Narcotics Commissioner constituted a team comprising of Superintendent Sujit Roy and Inspector D.S. Singh to conduct the inquiry. The team collected evidentiary information meticulously from the concerned field formations in the State of Bihar. The Narcotics Commissioner also visited personally to the concerned District Court, High Court and FSL Patna to examine the documents and observe the system. The related police officers, Court officials and FSL personnel were examined by the team in this connection.

Based upon relevant documents and information come across to the inquiry, an exhaustive inquiry report was submitted to the Hon'ble Court in sealed cover. The report besides describing the facts, inter-alia made recommendations for systemic improvements and implementation of various standing orders/instructions issued by the Ministry of Finance, Govt. of India and Narcotics Control Bureau relating to procedures to be observed in course of effecting seizures of narcotic drugs. The Hon'ble Court directed the Joint Registrar to prepare a synopsis of the report. The Hon'ble Court perused the synopsis and viewed the extent and potency of the actions of the unscrupulous elements. The High Court, accordingly, directed the IG Police, Patna; IG, CID, Patna to remain present personally before the Court to consider further action on the inquiry report.

The officers appeared personally before the Hon'ble Court on 29.10.2010. The Court expected to have effective meeting with the Advocate General to understand how a system is evolved to obviate the chances of fake report being sent at the end of the FSL.

The Narcotics Commissioner alongwith her team appeared before the Hon'ble Court in her Chamber on 03.12.2010. The Advocate General of Bihar was also present on behalf of State. The Narcotics Commissioner suggested the measures to be taken for solution of the problem and effective implementation of the NDPS Act in the State. A long discussion was held in the chamber of the Hon'ble Court on the date.

After the considered hearing, the Hon'ble Court has passed order dated 03.12.2010. The salient features of the order are as under:

- a) The Hon'ble Court has agreed that there has to be a total revamp of the existing system so far the procedure of seizure, sampling and sending of the seized articles to the FSL is concerned. For this reason, the learned Advocate General had assured the court that he will take steps to direct the Investigating Agency about the procedure which has to be strictly followed as provided by Standing Order No.1 of 1988 and 2 of 1988 issued by Narcotics Control Bureau, New Delhi and Standing Order No.1 of 1989 issued by the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
- b) To further thwart designs of the nefarious persons in sending the fake reports to the court, the Advocate General has been directed to supply the district wise list of the samples pending for examination supplied by the Narcotics Commissioner, to all the Superintendents of Police immediately so that they make enquiry at their end as to whether any fake reports have been submitted in those cases even while the samples were pending examination at the Forensic Science Laboratory.
- c) The Hon'ble Court has transferred several cases to the Vigilance Department for further investigation and directed for change of archaic method of despatch of test reports by the FSL as recommended by the enquiry.

The Hon'ble Court has recognized the efforts made by the team in conducting the enquiry and has accordingly placed the appreciation to the Narcotics Commissioner and her team in the order dated 03.12.2010. The words of the Hon'ble Court are reproduced below:

**"This court must appreciate the commendable work done by the Narcotics Commissioner, Central Bureau of Narcotics, Gwalior (MP) and her team in discharge of their duties and assisting the course of justice."**

The detail criminal investigation by the Vigilance Department as ordered by the Court would pinpoint the persons involved in the perpetuation of crime and preparation of fake reports. The proper observance of instructions issued by Central Government regarding procedures for effecting seizures would strengthen the prosecution leading to appropriate and just punishment. The effective implementation of the NDPS Act will reduce the problem of trafficking of drugs in the state of Bihar having perforated borders with neighboring country like Nepal and would fulfill the intention of legislation to ameliorate the impact of drug abuse from the society.

Copy of order/judgement attached.

*Jagjit Pavadia*  
(Smt. Jagjit Pavadia)  
Narcotics Commissioner

IN THE HIGH COURT OF JUDICATURE AT PATNA  
Cr. Misc. No.6651 of 2010  
RADHEY PRASAD CHAURASIA  
Versus  
STATE OF BIHAR  
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For the petitioner : Mr. B. P. Pandey, Sr. Advocate.

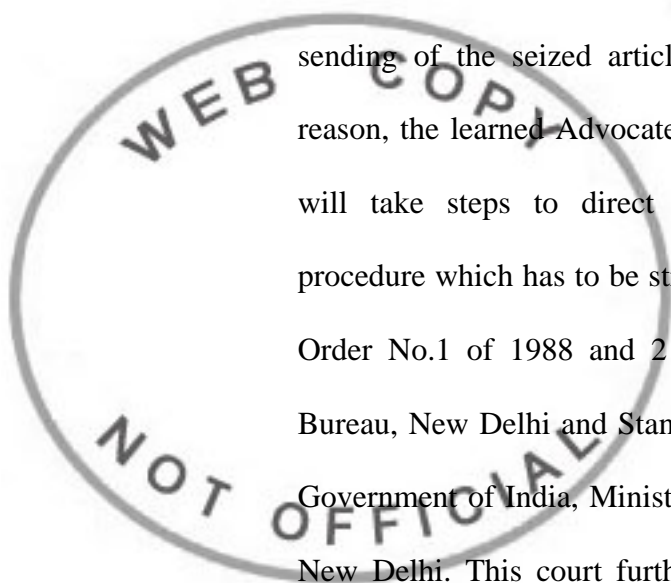
For the Union of India: Mr. Dwivedi Surendra, C.G.C.

For the State : Mr. Ram Balak Mahato, Advocate General with  
Mr. S. A. Ahmad, APP  
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13/ 03.12.2010

Pursuant to the order dated 29.10.2010, this case has been listed in the chamber where the learned Advocate General and Narcotics Commissioner, Govt. of India are present.

It is agreed that there has to be a total revamp of the existing system so far the procedure of seizure, sampling and sending of the seized articles to the FSL is concerned. For this reason, the learned Advocate General has assured this court that he will take steps to direct the Investigating Agency about the procedure which has to be strictly followed as provided by Standing Order No.1 of 1988 and 2 of 1988 issued by Narcotics Control Bureau, New Delhi and Standing Order No.1 of 1989 issued by the Government of India, Ministry of Finance, Department of Revenue, New Delhi. This court further feels the necessity of directing the Investigating Agency to prepare duplicate samples of each seizure. The Special Courts shall order one to be forwarded to the Forensic Science Laboratory, Patna, and the duplicate to be sent to the Chemical Laboratory, Customs House, Kolkata, in view of the rampant tampering with samples, so that there is a provision of cross



check. Till such time as the system is revamped at the FSL, Patna, and the Investigating Agencies are directed to prepare two samples the Special Courts shall direct testing of samples at Chemical Laboratory, Customs House, Kolkata. As per the report of the Central Bureau of Narcotics, there has never been any complaint about the Chemical Laboratory, Customs House, Kolkata, in cases of this nature.

In addition, considering there is inordinate delay in sending samples for testing, when the Special Courts receive the First Information Report with regard to seizure of NDPS articles, they are directed to immediately issue orders for production of samples before the court and send the same to the Chemical Laboratory, Customs House, Kolkata. They shall also fix an outer limit for the examination of the samples.

The Commissioner of Narcotics submits that from the data collected at their end it appears that there are 754 samples pending for testing; 40% of exhibits were of the year 2006 and 34 % were of the year 2007. Altogether 57% of the samples are pending examination for the last four years resulting in delay in trial of NDPS cases. This is unfortunate to say the least.

The Advocate General assures this court that immediate steps shall be taken with regard to posting of additional specialized officers at the Forensic Science Laboratory so that there is no further backlog of testing of samples.

The present case i.e. Harnaut P.S. case no.195 of 2009 is not the solitary case where the fake report with regard to the samples

was detected and there could be many more which have not been brought to light. A few others are enumerated below :

1. Mohania P.S. case no.141 of 2007,
2. Shivsagar P.S. case no.218 of 2009,
3. Bhabhua P.S. case no.344 of 2009 &
4. Jandaha P.S. case no.127 of 2008

Unfortunately, even though Shastri Nagar P.S. case no.175 of 2007 was instituted in this regard till date no substantive investigation has been conducted.

Under the circumstances in the interest of justice, it is ordered that further investigation of Shastri Nagar P.S. case no. 175 of 2007 be immediately transferred to the Vigilance Department. The Vigilance Department may take over investigation or file a fresh case as it deems necessary. A report about the action taken in this regard shall be submitted to this court after the expiry of three months.

As for checking despatch of fake reports from the end of the Forensic Science Laboratory, it is essential that system be changed and the archaic method of sending the report in briefcase which can be easily tampered should be discontinued with immediate effect. It is generally agreed that the system adopted by the Patna High Court in sending bail matters which has proven effective should be adopted in sending the reports from the Forensic Science Laboratory. For this reason, the Advocate General assures this court that steps shall be taken to place/replace FAX machines in the office of the Forensic Science Laboratory within a period of four weeks.

To further thwart designs of the nefarious persons in

sending the fake reports to the court, the Advocate General is directed to supply the district wise list of the samples pending for examination supplied by the Narcotics Commissioner, to all the Superintendents of Police immediately so that they make enquiry at their end as to whether any fake reports have been submitted in those cases even while the samples were pending examination at the Forensic Science Laboratory.

List this case after three months under the same heading in Chamber at 2.15 PM.

Let a copy of this order be given to the Advocate General, Bihar, /Mr. Dwivedi Surendra, counsel for the Central Bureau of Narcotics for doing needful in the matter.

Let a copy of this order be sent to each of the Special Courts dealing with the NDPS Cases situated within the State of Bihar for information and necessary action at their end.

This court must appreciate the commendable work done by the Narcotics Commissioner, Central Bureau of Narcotics, Gwalior (MP) and her team in discharge of their duties and assisting the course of justice.

JA/-

(Anjana Prakash, J.)

IN THE HIGH COURT OF JUDICATURE AT PATNA  
Cr.Misc. No.6651 of 2010  
RADHEY PRASAD CHAURASIA S/O LATE BHAGAT CHAURASIA  
Versus  
STATE OF BIHAR

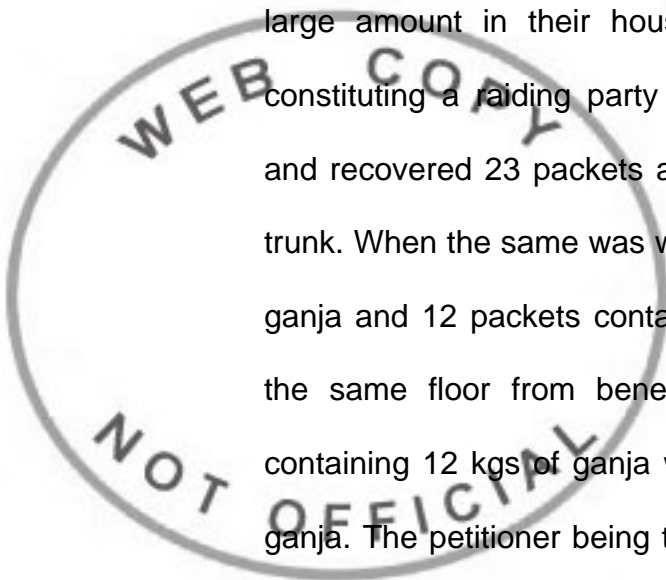
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For the Petitioner : Mr. Jagarnath Singh, Advocate  
For the Union of India : Mr. D. Surendra, C.G.C.  
For the State : Mr. S.A. Ahmad, A.P.P.  
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4. 26.4.2010 Heard learned Counsel for the petitioner, the State and the Union of India.

The petitioners seek bail in a case instituted for the offence under Sections 20, 22 of the N.D.P.S. Act.

The prosecution case is that on 18.8.2009 the informant being S.H.O., Harnaut P.S. received information from the Superintendent of Police, Nalanda that the petitioner and his son were engaged in smuggling of ganja and had stored the same in large amount in their house. So, at 1.15 P.M., the informant constituting a raiding party searched the house of the petitioner and recovered 23 packets allegedly of ganja concealed in a steel trunk. When the same was weighed, 11 packets contain 127 kgs of ganja and 12 packets contain 135 kgs of ganja. From a room on the same floor from beneath the bed one plastic gunny bag containing 12 kgs of ganja was also recovered, totally 274 kgs of ganja. The petitioner being the owner of the house was booked in the present case and was remanded to custody on 18.8.2009 i.e. the same day.

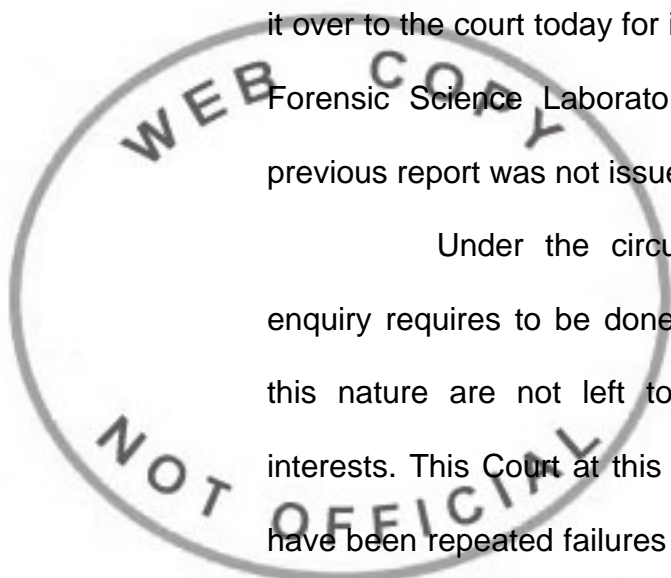
The petitioner filed the present bail application annexing as Annexure-2, a F.S.L. Report No.1099 of 2009 dated 6.1.2010 issued by the Forensic Science Laboratory, Patna, opining that the Exhibit marked as A/1 was not 'ganja'. This Court



was not ready to accept that such a huge amount of alleged ganja yielded the said report and thus called for an explanation by an order dated 9.3.2010 from the Director, Forensic Science Laboratory, Patna as to how he had concluded that the sample was not 'ganja'. Thereafter a fresh report numbered as F.S.L.No.1099 of 2009 dated 29.3.2010 has been sent wherein it has been said that the same was 'ganja'.

There are a couple of things which are very suspicious in the entire episode. Firstly the number of the reports dated 6.1.2010 and 29.3.2010 are the same and secondly the report dated 29.3.2010 is obviously pursuant to this Court's order dated 9.3.2010. The petitioner asserts that Annexure-2 is the certified copy which has been received by the court below and has handed it over to the court today for its future use. Surprisingly the Director, Forensic Science Laboratory, Patna has not asserted that the previous report was not issued from their end.

Under the circumstances, in my opinion, a proper enquiry requires to be done at the highest level so that cases of this nature are not left to the mercy of persons with vested interests. This Court at this juncture may also point out that there have been repeated failures of cases involving recovery of narcotic substances also on the ground that despite seizures having been made from several sources, samples for testing have not been taken separately from each of them and instead they are mixed together and only one sample is taken for testing. Evidently this is contrary to law and common sense since in cases involving drugs the weight of recovered items determines the quantum of



punishment. In the present case also even though it is the case of the prosecution that altogether 24 separate packets were recovered, only one sample was prepared for testing.

Under the circumstances, the Chairman, Central Board of Excise and Customs, North Block, New Delhi, Pin-110001 and Narcotics Commissioner of India, Central Bureau of Narcotics 19, Dhemall, Morar, Gwalior (M.P.) are directed to hold a full fledged enquiry into the matter and report to this Court about the result.

Let a copy of the same be also sent to the Zonal Director, Narcotics Central Bureau (N.C.B.), 912, C.I.D. Colony, Sector-A, Maha Nagar, Lucknow (U.P.). Let this order be communicated even to the Sessions Judge-cum-Special Judge, Nalanda at Bihar Sharif and other Special Courts hearing such matters so that they are also watchful of such instances.

Let this file be placed before Hon'ble Mr. Justice Navin Sinha, who had the occasion to consider the bail application of the son of the petitioner vide Cr.Misc.No.5940 of 2010.

Let the certified copy of the F.S.L. report no.1099 of 2009 dated 6.1.2010 and report no.1099 of 2009 dated 29.3.2010 be kept in sealed cover in the safe custody of the Joint Registrar (Judicial), Patna High Court so that the same is available for the Investigating agency as and when required.

Put up after two months in the Chambers at 2 P.M. if not sitting single in court.

Narendra/

( Anjana Prakash, J. )