



THE RULE 14 VACUUM: DELAYED FSL REPORTS AND PROLONGED INCARCERATION UNDER THE NDPS ACT

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One of the most draconian criminal laws in India is the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). Often so, we hear that the authorities have arrested a person found with a commercial quantity of substances which are prohibited under the NDPS Act (such as cocaine, MD, etc.). In such cases, it is extremely difficult to obtain bail, more so because of the stringent provisions under the NDPS Act, thereby leaving the accused persons incarcerated for a prolonged period. The NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 (NDPS Rules) were introduced to streamline the procedures of seizure, storage, sampling and disposal.

Once the substance has been seized by the authorities, samples thereof are required to be sent to the government laboratory (usually the Forensic Science Lab – FSL) for chemical analysis. Rule 14 of the NDPS Rules particularly requires the chemical laboratory to provide its reports (forensic reports) within 15 days of receiving the sample and where quantitative analysis requires additional time, the quantitative report within a further 15 days. However, the ground reality is that government laboratories are overburdened and are unable to comply with the timelines stipulated in Rule 14, thereby causing hardship for accused persons who may not be guilty of any offence but may be incarcerated. This is coupled with the fact that district courts, and many times the high courts, are reluctant to grant bail even when the prosecution fails to adhere to these timelines.

In a way, Rule 14 safeguards the fundamental right of liberty of the accused person who may be incarcerated and ensures that they are not held in custody for a long period in the absence of a forensic report which would determine the quality (i.e. nature) and quantity of the substance. However, surprisingly, the provision is silent on the consequences of non-compliance thereby creating a procedural vacuum. In practice, it is common for investigating agencies to arrest individuals and keep them incarcerated for a prolonged period without the receipt of either a qualitative or quantitative report from the FSL. This delay leaves the accused helpless and deprived of liberty that too without any evidence at that stage.

Some relevant judicial precedents which come to the aid of the accused persons include the judgments of the Kerala High Court in **Anuraj v. State of Kerala (B.A Nos. 5549, 5686, 5693, 5957 of 2023)** and **Akshay v. State of Kerala (Bail Application No. 7586 of 2024)** wherein the High Court recognized the delays in forensic analysis resulting in curtailment of personal liberty and observed that lack of infrastructure cannot justify the delay in providing the FSL report. In both the cases, the accused persons were incarcerated for many months on the assumption of a more serious offence due to non-availability of the FSL report. The Court held

that an accused has the right to expeditious testing of the substance so seized, and the State must ensure strict compliance with Rule 14. If the chemical analysis report is not submitted within the stipulated period, the Court held that the accused is entitled to file an application

and seek directions from the jurisdictional court for expediting the test results. While it was stated that the remedy available to the accused persons is to file an application for expeditious test results, the High Court itself made the bail orders of the Sessions Court absolute. The High Court went on to reiterate the fundamental principle that “bail is the rule and jail the exception.”

It seems that the courts are wary of the fact that while the remedy for an accused person may be to file an application for expediting the test result, but given the fact that the same may be a time-consuming process and in order to protect the fundamental right of liberty of the accused person, the Courts have considered Rule 14 (expeditious testing) in bail applications itself.

In fact, the Aurangabad Bench of High Court of Bombay in **Bail Application No. 1567 of 2025**, while hearing a bail application, has gone to the extent of directing the FSL to submit its report within five (5) days and based on the contents thereof, released the accused person on bail. Similarly, in a petition under Section 482 CrPC (now Section 528 BNSS), the Rajasthan High Court in **Irfan v. State of Rajasthan 2025 RJJ 6059** directed the FSL to expedite the forensic analysis and submit its report within 30 days from the receipt of the sample.

The Madras High Court in **J Mani v. State of Tamil Nadu CRL OP (MD) No.19369 of 2024** observed that the quality and quantity of the substance can be conclusively determined only through the FSL report. Any delay in providing the FSL report affects the liberty of the accused. In the instant case, the FSL report was not received for months after seizure and the court found the same to be in violation of Rule 14. The Court directed the Tamil Nadu government and the FSL to strictly comply with Rule 14. The court held that the accused has the right to approach the relevant court for directions to expedite the testing. The Court also ordered for the issuance of a circular to enforce the above across the state. While doing so, the Court granted interim bail to the petitioner and reinforced that procedural lapses cannot justify prolonged detention.

Even the Supreme Court in the matter of **Bharat Chaudhary vs. Union of India (2021) 20 SCC 50** held that in the absence of any clarity on the quantitative analysis of the samples, the prosecution cannot be heard to state that the petitioners have been found to be in possession of commercial quantity of psychotropic substances as contemplated under the NDPS Act.

Despite these judicial pronouncements, district courts and, more often, the High Courts hesitate to grant bail, citing the gravity of NDPS offences and the “twin conditions” under Section 37 of the NDPS Act. This results in a paradox. Although Rule 14 was designed to protect the rights of the accused by way of a timely FSL report, its non-enforcement often results in extended pre-trial incarceration, thereby undermining the very safeguard it was meant to provide.

While it may be contended that the appropriate remedy lies in filing an application before the Magistrate under Rule 14 seeking a direction to the FSL for the timely submission of its report, such a procedural burden, in my view, should not fall upon the accused. Rule 14 is unambiguous and the FSL is mandatorily required to submit its report within 15 days of receipt of samples. Requiring the accused to initiate legal proceedings due to the lackadaisical approach of the authorities cannot be the intention of the law and would tantamount to be an additional burden upon the accused. Courts ought to recognize the mandatory nature of Rule 14. In cases where the FSL report is not submitted within the stipulated timeframe, the courts (whether District Courts or High Courts) should not hesitate to grant bail. Of course, this would have to be weighed on a case to case basis and would be dependent on other aspects, including past antecedents and background of the accused person, etc. However, where possible, courts ought to be more liberal in granting bail perhaps with appropriate bail conditions.

In my view, if the substance so seized is known not to be a prohibited substance under the NDPS Act, a better approach for the accused person could be to file a bail application and

while arguing the non-compliance of Rule 14, request the court to direct the FSL to submit its report in a time bound period. Since the case would hinge on the FSL report, the courts are likely to accede to such a request and direct the FSL to provide its report in a time bound manner. This not only saves time, but also assists the court in deciding the bail application expeditiously. The courts have repeatedly observed that delays in FSL reports cannot be used to justify indefinite incarceration. It is imperative for courts to adopt these principles and ensure that FSL reports are made available within the statutorily timelines.

FSL reports being available within the stipulated timelines are not a mere formality, as they tend to affect the fundamental right of liberty of the accused. Non-compliance with Rule 14 must be treated as a serious procedural lapse, and bail ought to be granted for non-compliance unless the prosecution is able to show compelling reasons for the delay (not merely FSL being overburdened).