

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

20.02.2025
Court No.01
rpan / 11

CRM (NDPS) 67 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Dinhata Police Station Case no. 601 of 2024 dated 26.11.2024 under Sections 20(b)(ii)(C)/27(A)/29 of the Narcotic Drugs and Psychotropic Substances Act [NDPS Case No.110 of 2024];

And

In Re: Matiyar @ Matiar Rahaman
- Petitioner

Mr. Sourav Ganguly,
Ms. Deblina Ray,
Mr. Gopal Roy,
Mr. Bibek Tarfder,
Ms. Rishita Chakraborty,
Mr. Bibhash Kumar Nandi
... for the Petitioner.

Mr. Nilay Chakraborty, Ld. APP
Ms. Namrata Das
... for the State.

Mr. Ganguly, learned advocate appearing for the petitioner submits that in the present case, the petitioner has been falsely roped in. From the *suo motu* complaint communicated to the Inspector-in-Charge, Dinhata Police Station there are contradictory statements. In paragraph 2 of the said complaint it has been stated that '*At 23:25 hrs we arrived at Mashanpath, nearby abandoned Petrol pump and then we placed our vehicle to intercept the plying vehicles, I looked for local witness but the area is isolated and local witness is next to impossible thus with proper consultation with I C P.S, I requested my 1) HG 93 Harendra Barman 2) SPL HG 1204 Bidhu Barman to*

remain present as witness to any search and seizure’. However, subsequently in paragraph 7 it has been stated that *‘under proper seizure list in presence of local witnesses under proper videography from 02:05 hrs to 02:55 hrs*’. Such contradictions give rise to a reasonable ground that the arrest of the petitioner may not have occurred in the manner as alleged by the prosecution.

He argues that on 25th November, 2024 at about 01.55 hours the police officer of Dinhata P.S with some other police personnel forcefully entered the house of the petitioner and took him away with many other articles. Such entrance and exit of the police personnel were recorded through the CCTV installed at the ‘Jama Mosque’ beside the house of the petitioner. Such footage was certified under Section 65B of the Evidence Act. Immediately thereafter on 26th November, 2024, the petitioner’s mother lodged a complaint before the Superintendent of Police, Cooch Behar district. However, it has not been acted upon. Such act as complained falsifies the entire story of the prosecution regarding apprehension of the petitioner at Mashanpath, nearby abandoned Petrol pump on 25th November, 2024 at about 2.55 hrs to 2.30 hrs, as stated in the seizure list. The petitioner is suffering long incarceration since 25th November, 2024 till date and in the said conspectus, he may be enlarged on bail.

Mr. Chakraborty, learned Additional Public Prosecutor appearing for the State submits that prejudice has to be established and cannot be inferred. Procedural irregularities, unless prejudicial to the accused, cannot form the sole basis for bail.

Arrest curtails freedom, brings humiliation and casts scars forever. Detention cannot be authorized in a routine and casual manner. In the present case, the contradictory statements made in the complaint as regards the witnesses who were present, *prima facie*, reveals glaring lacunae in the prosecution case which erodes its root and in our opinion the petitioner has been able to demonstrate with reasonable certainty that he is not guilty of the offence and he is not likely to commit any offence while on bail. In the backdrop of such sequence, it would not be proper to deny the petitioner's liberty in spite of the statutory restrictions under Section 37 of the NDPS Act.

It further appears that the petitioner is a family person residing along with his family members and *prima facie* it appears that there is no likelihood that he would flee from justice.

Accordingly, we direct that the petitioner, namely, **Matiyar @ Matiar Rahaman** shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of like amount each, one of whom must be

local, to the satisfaction of the learned Additional Sessions Judge, 1st Court, (NDPS) Cooch Behar, with further conditions that he shall reside within the Cooch Behar district and intimate the address to the Investigating Officer of the case within a week from date and shall also meet with him once a week till completion of investigation.

It is further directed that the petitioner shall not intimidate/influence the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial Court would be at liberty to cancel his bail without any further reference to this Court.

The application for bail, being CRM (NDPS) 67 of 2025 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Prasenjit Biswas, J.)

(Tapabrata Chakraborty, J.)