

**IN THE HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

25.04.2025
(ct. no.03)
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BR

CRM (NDPS) 152 of 2025

In Re : An application for bail under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Sanjay Kumar Patel

.... Petitioner.

Mr. Sourav Ganguly
Ms. Rishita Chakraborty

... For the Petitioner

Mr. Ujjwal Luksom
Mr. Chattu Roy

... for the State

- 1.** The prayer for bail in this case arises out of an order dated 20.02.2025 passed by the learned Additional Sessions Judge, 1st Court (under NDPS Act) at Jalpaiguri in connection with NDPS Case No. -38 of 2024 (38) arising out of New Jalpaiguri Police Station Case No. 614 of 2024, dated 24.6.2024, for alleged offence punishable under Section 21 (c)/25/29 of the NDPS Act.
- 2.** The petitioner herein has been implicated in the present case on the basis of a statement of a co-accused and also being the owner of the vehicle from which the contraband articles was recovered.
- 3.** The petitioner has claimed parity with another co-accused Kaushal Singh who has been named in the charge sheet but nothing has been recovered from his possession and was also charge sheeted on the basis of statement of a co-accused.

4. The petitioner is claiming parity also with the accused in CRM (NDPS) No. 144 of 2025 being **Ramkrishna –vs- State of West Bengal** passed on 8.4.2025 on the ground that the arrest in the present case has not been in accordance with law.
5. It appears from the materials on record that the petitioner herein being the owner of the vehicle from which the contraband article was seized on 24.6.2024 and was arrested subsequently on 27.9.2024 and as such by then the present case had already been initiated and the petitioner herein was arrested subsequently after almost 3 months of recording of the case, relating to the seizure of truck containing contraband articles and as such the grounds of arrest was prima facie known to the petitioner herein and as such the petitioner cannot claim benefit of non-compliance of Section 52(1) of the NDPS Act.
6. In **Khairul Sk vs The State of West Bengal, in Special Leave to Appeal (Crl.) Nos. 13282/2023, decided on 19.01.2024**, the Supreme Court held:-
 - “5. In the present case also, the recovery of the contraband material is from the brother of the present petitioner. The allegation is that the vehicle which was used for the crime belong to the present petitioner and that the said vehicle was used with the knowledge that the same is used for transfer of contraband material.*
 - 6. Taking into consideration the fact that neither in the present case nor in the earlier case there is recovery directly from the petitioner, we are inclined to allow the petition.”*
7. In the present case too, there has been no recovery directly from the possession of the petitioner herein. Herein also the allegation against the petitioner is that the vehicle used for the crime belongs to the present petitioner.
8. Thus relying upon the judgment in **Khairul Sk vs The State of West Bengal (Supra)**, the petitioner herein namely, Sanjay Kumar Patel, is entitled to bail.

9. The petitioner namely **Sanjay Kumar Patel** be released on bail upon furnishing bond of Rs.20,000/- each with two registered sureties of Rs.10,000/- **one of which must be local** to the satisfaction of the learned Additional Sessions Judge, 1st Court (NDPS), Jalpaiguri, on further condition that they shall attend court on each and every date fixed during trial unless exempted and shall not tamper with any evidence and threaten any witness during pendency of the trial.
10. **The petitioner shall not leave the jurisdiction of District Jalpaiguri without prior permission of the learned trial Court until further orders.**
11. **The application for bail is accordingly disposed of.**
12. There will be no order as to costs.
13. All connected applications, if any, stand disposed of.
14. Interim order, if any, stands vacated.
15. Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Shampa Dutt (Paul), J.)