

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction

17.11.2025
24 (DL)
AN

C.R.M. (A) 629 of 2025

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sitalkuchi P.S. Case No. 116 of 2025 dated 20.03.2025 under Section 18 of NDPS Act.

In the matter of : Sunil Chandra Barman @ Sunil Barman
... Petitioner.

Mr. Subhasish Misra
Mr. Satyajit Paul
Mr. Rounak Ghosh

...for the Petitioner.

Mr. Nilay Chakraborty, Id. APP
Mr. Tapan Bhattacharjee

...for the State.

1. Learned advocate for the petitioner submits that the land over which the alleged cultivation has been undertaken belonged to the deceased father of the petitioner viz. Ramesh Chandra Barman. Upon his demise, his three sons namely the petitioner and two brothers are possessing their respective portion on mutual oral arrangement. No such partition has been affected between the legal heirs of deceased Ramesh Chandra Barman in metes and bounds. Therefore, the case of the prosecution that the petitioner has made opium cultivation over the land is basically illusory and is not sustainable. Though the seizure has been made

quantifying 16kg. 600 gms. of opium plant, however, the total weight of opium has not been quantified and as such the case of the prosecution is bad in law. The Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*in short*, 'NDPS Act') does not specify the commercial quantity for the alleged contraband. He seeks for anticipatory bail to the petitioner.

2. On the contrary, opposing such prayer for anticipatory bail, learned Additional Public Prosecutor representing the State submits that as per the version of the local villagers, such cultivation is being carried on by the petitioner on the land possessed by him. He seeks for dismissal of the application for anticipatory bail.
3. Perused the case diary and the materials on record.
4. Admittedly, the land in question belonged to the father of the petitioner. It is not in dispute that upon demise of the father of the petitioner, the petitioner and his two brothers are in possession of their respective portion on mutual oral arrangement. The statement of the witnesses shows that such cultivation has been undertaken by the petitioner. There is seizure of 16kg. 600 gms. of plant with leaves, fruits and steps. It has been strenuously argued on behalf of the petitioner that total weight of opium has not been quantified and only the weight of opium plant is quantified which makes the prosecution case bad in law. In this regard, it is found that the

prosecution has made out a case of cultivation of opium poppy. As per Section 2(xvii) of NDPS Act, 'opium poppy' means (a) the plant of the species *Papaver somniferum* L.; and (b) the plant of any other species of *Papaver* from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act. In view of the above definition, such argument does not hold good. Considering the materials as indicated and the nature and gravity of the offence, I am not inclined to grant the prayer for anticipatory bail in favour of the petitioner.

5. Thus, the prayer for anticipatory bail is rejected.
6. The application being **CRM(A) 629 of 2025** stands dismissed.

(Bivas Pattanayak, J.)