

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction
Appellate Side

Present :
Hon'ble Justice Md. Shabbar Rashidi

CRM (NDPS) 450 of 2025

CHHAMAD ALI alias ALI CHHAMAD

Versus

THE STATE OF WEST BENGAL

For the Petitioner : Mr. Sourav Ganguly
Mr. Gopal Roy
Ms. Rishita Chakraborty
Mr. Bibhash Kr. Nandi
... *Advocates*

For the State : Mr. Aditi Shankar Chakraborty, APP
Mr. Aniruddha Biswas
Ms. Namrata Das
... *Advocates*

Heard on : 25.11.2025

Judgement on : 25.11.2025

Md. Shabbar Rashidi, J. :-

1. This is an application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Sahebganj PS case no.454 of 2025 dated 05.08.2025 under Sections 21(c) and 29

of the Narcotics Drugs and Psychotropic Substances Act, 1985 and the same is taken up for consideration.

2. Report submitted on behalf of the State in compliance of the order dated November 17, 2025 is taken on record.
3. It has been submitted by the learned advocate appearing on behalf of the petitioner that the petitioner was falsely implicated in this case merely on the basis of statement of the co-accused recorded while in custody. The petitioner is in custody for more than three months.
4. Learned advocate for the petitioner further submits that in the nexus report submitted today by the State, even if the petitioner had telephonic conversation with the accused arrested with commercial quantity of narcotics, such call details record may be taken into consideration at the time of trial. In support of his submission, learned advocate for the petitioner relies upon a judgment passed by the Hon'ble Supreme Court in the case of **State (by NCB) Bengaluru Versus Pallulabid Ahmad Arimutta & Anr.** reported in (2022) 12 SCC 633 where the following was observed :-

“...12. It has been held in clear terms in Tofan Singh v. State of T. N., that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents

or the co-accused under Section 67 of the NDPS Act, cannot form the basis of for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16-9-2019, 14-1-2020, 16-1-2020, 19-12-2019 and 20-1-2020 passed in SLP(Crl.) No. arising out of Diary No.22702 of 2020, SLP (Crl.) No. 1454 of 2021, SLP(Crl.) No. 1465 of 2021, SLPs (Crl.) Nos.1773-74 of 2021 and SLP (Crl.) No. 2080 of 2021 respectively. The impugned orders are, accordingly, upheld and the special leave petitions filed by the petitioner NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."

5. Learned advocate for the petitioner submits that the petitioner deserves to be enlarged on bail.
6. Learned advocate appearing on behalf of the State relies upon the report submitted today as well as the materials contained in the case diary. He submits that it is true, the petitioner has been arrested on the basis of statement of the co-accused recorded while in custody. Nevertheless, the petitioner had telephonic conversation with the person who was arrested with commercial quantity of narcotics.
7. Having heard the submissions made on behalf of the parties and on perusal of materials in the case diary, it appears that it is not in

dispute that the petitioner had been arrested on the basis of statement of co-accused recorded while in custody. Nothing was recovered/seized from the possession of the petitioner. The report submitted on behalf of the State discloses that the accused arrested with commercial quantity of narcotics is alleged to have made a statement recorded while in custody that it was the petitioner from whom he used to procure contraband articles.

8. It is admitted that the co-accused was arrested in possession of commercial quantity of narcotics on 5th August, 2025 whereas the petitioner was arrested on 29th August, 2025 on the basis of statement of the co-accused. The case diary contains the call details record which shows a single telephonic conversation between the co-accused and the petitioner in the month of July, 2025, much prior to when he was arrested with contraband narcotics.
9. Considering the ratio laid down by the Hon'ble Supreme Court in the case of **State (by NCB) Bengaluru (supra)** as well as taking into consideration that there is a solitary telephonic conversation between the petitioner and the person arrested with the commercial quantity of narcotics and also taking into account that the petitioner was not arrested having been in possession of contraband narcotics, he was arrested apparently on the basis of the statement of the co-accused recorded while in custody, I am of the opinion that the petitioner has been able to overcome the restrictions contained in

Section 37 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and, therefore, the petitioner may be enlarged on bail.

10. Hence, the application for bail is **allowed**.
11. Accordingly, I direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Sessions Judge, Special Court (NDPS), Cooch Behar subject to condition that the petitioner shall meet the Investigating Officer of this case once in a week until conclusion of the investigation and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.
12. In the event, the petitioner fails to comply with any of the conditions as enshrined hereinbefore, it shall be open to the Trial Court to cancel the bail without further reference to this Court.
13. Accordingly, CRM (NDPS) 450 of 2025 is disposed of.
14. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(**Md. Shabbar Rashidi, J.**)