

D/L47
19.01.2026
Bpg.
Dismissed

C.R.M. (NDPS) 46 of 2026

In Re: An application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Aushgram Police Station Case No.34 of 2025 dated 23.01.2025 under Section 20(b)(ii)(C)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

Santosh Ghosh @ Bapi & Anr.
Versus
The State of West Bengal

Mr. S.D. Mahapatra
Mr. Palash Bapari.
...for the petitioners.

Mr. Bibaswan Bhattacharya
Mr. Sourat Nandy.
...for the State.

Learned advocate appearing for the petitioners submits that the petitioners are similarly placed as other accused person who has been granted bail in CRM(NDPS)1749 of 2025

Learned advocate for the State opposes the prayer for bail and submits that 81 kgs. of ganja were recovered.

I have considered the order dated 29.12.2025 in CRM(NDPS)1749 of 2025 wherein it has been observed that the petitioner therein was driver of the vehicle. The present petitioners are not driver of the vehicle but the passengers of the vehicle. The claim of parity under Article 14 of the Constitution of India by the petitioners is distinguishable on the facts of the case. As the principle of parity depends on the complicity, gravity, nature, quantum and the structure of the statute. So far as the structure of

the present statute is concerned, Section 37 of the NDPS Act with the assent of the legislature in spite of Article 14 of the Constitution of India existing has been passed. As such, the legislature thought it fit and proper to impose twin conditions while considering the application for bail distinguishing the same from bail under Section 439 of the Code of Criminal Procedure. Having regard to the same, I am of the view that in a case of recovery of 81 kgs of ganja the privilege of parity cannot be extended to persons uniformly without assessing their complicity.

Learned advocate for the petitioners submits that the State has never prayed for SLP. In spite of such submissions having been advanced, this Court has made observations in respect of the merits of the bail concerned.

Accordingly, CRM (NDPS) 46 of 2026 is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)