

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

Present:

The Hon'ble Justice Tirthankar Ghosh

CRM (NDPS) No. 1126 of 2025

***Vinod T
versus
State of West Bengal***

For the Petitioner : Mr. Milon Mukherjee, Sr. Adv.,
Mr. Saibal Mondal, Adv.,
Mr. Dattatreya Dutta, Adv.

For the State : Mr. Antarikhya Basu, Adv.,
Mr. Atanu Ghosh, Adv.

Hearing Concluded On : 27.04.2026

Judgement On : 10.06.2026

Tirthankar Ghosh, J.:

The present bail application has been preferred in connection with Ranaghat Police Station Case No.92 of 2025 dated 21.02.2025 which was registered for investigation under Sections 20(b)(ii)(C) of the Narcotic Drugs Psychotropic Substances Act, 1985.

The genesis of the present case relates to recovery of 104 kg 600 gms of ganja from a hired white Ertiga car which was driven from Siliguri to Kolkata by the present petitioner. The letter of complaint was addressed to the Inspector In-Charge, Ranaghat Police Station by a Sub-Inspector of

Police who effected the search and seizure and the following materials were seized:

“i) One white colour Ertiga Suzuki car Reg. No. WB74BN 1182, Engine No. K15CN9137242 and Chassis No. MA3BNC72SNL557224, Model 2023, Marked as Exhibit "A".

ii) One nylon sack loaded with brown colour cello tape wrapped narcotic substance looks like Ganja, weight 30 Kgs., this nylon bag has the Tiger brand premium quality marked on it, Marked as Exhibit "B".

iii) One nylon sack loaded with brown colour cello tape wrapped narcotic substance looks like Ganja, weight 35 Kgs., this nylon bag has the Tiger brand premium quality marked on it, Marked as Exhibit "C".

iv) One nylon sack loaded with brown colour cello tape wrapped narcotic substance looks like Ganja, weight 39 Kgs. 600 grms.. this nylon bag has the Tiger brand premium quality marked on it, Marked as Exhibit "D". Note: Sl No. ii, iii & iv alamats seized from inside of the seized white colour Ertiga Suzuki car Reg. No. WB74BN 1182, Engine No. K15CN9137242 and Chassis No. MA3BNC72SNL557224. I also seized some personnel property of the apprehend accused person and prepared seizure list of the personnel property of accused and all original seizure list, zimmanama are annexed herewith my suo-moto complaint.”

Mr. Mukherjee, Learned Senior Advocate appearing for the petitioner argued that the documents which have been supplied to the petitioner reflect that the police authorities received a telephonic information which was recorded as GDE No. 1134 relating to smuggling of ganja in a white Ertiga Car plying at NH12 between Mission Gate and Begopara More. The

police authorities claimed that they chased and intercepted the vehicle near Begopara Mill Para More. Three nylon sacks suspected to be ganja (104 kg 600 gms) were recovered, weighed, seized and the petitioner was arrested as he failed to produce any documents relating to the seized contraband. It has been claimed by the petitioner that no independent witnesses were present and it was only police personnel in plainclothes who wrongfully intercepted the petitioner while he was on a call with his wife, asserting that he was transiting via a rental Zoom Car.

Petitioner claims that he was arrested on 21.02.2025 and since then he is in custody for one year five months.

According to the petitioner there has been violation of Section 52A of NDPS Act as the seizure was effected on 21.02.2025 and the inventory under Section 52A of NDPS Act was forwarded to the Magistrate only on February 26, 2025 i.e. almost five days later, which breached the mandatory “forthwith” requirement for certification of correctness of the inventory as also taking photographs of the same. It was further contended that the seized alamats were stored in godown without initial inventory list on first production date, rendering the seizure procedurally void.

Arguments were also advanced that the contraband was weighed using a weighing machine borrowed from vegetable vendor which has been corroborated by the raiding team members and seizure witnesses, as such the quantification which has been done of the seized contraband is questionable as the same may not overcome the threshold required for

commercial quantity. Weighing by such machine invalidates not only the seizure but the quantification of the contraband is also unreliable. Petitioner challenged the report of the State Drug Control & Research Laboratory (SDCRL) which was received on May 16, 2025 but was sent for correction on June 12, 2025. Such conduct according to the petitioner raises suspicions relating to tampering of the record which is in addition to the delayed re-submission.

It was further contended that there are overwriting in the seizure list in respect of the time of seizure which points towards potential fabrication and afterthought mechanism. The same according to the petitioner is grave as no independent witnesses signed the seizures list and it is only the police authorities who were party to the seizures. The petitioner's signature in the seizure list was by way of coercive mechanism which is far from any voluntariness. Petitioner also challenged the seizure on the ground of non-availability of CCTV footage being collected from the spot and according to the petitioner the Call Detail Records (CDR) and iPhone My Location App would reflect that the petitioner was at a different location near Ranaghat Police Station. Petitioner also submits that he has not been provided with translated copies of Section 161 Cr.PC statements which would violate his fair trial rights under Article 39A of the Constitution of India.

Learned Advocate for State on the other hand opposed the prayer for bail and submitted that the police authorities have complied all the necessary formalities according to the rule book and the search and seizure was conducted by strictly adhering to the provisions of the NDPS Act and

rules framed thereunder. According to the state on receipt of source information at about 12:05 P.M. the same was diarised and informed to the superior. Email was sent to the Sub-Divisional Officer Ranaghat for presence of Executive Magistrate at the time of search and seizure. The force left the police station and went to Begopara More, after sometime they tried to apprehend Ertiga Suzuki vehicle WB74BN 1182. Two independent witnesses namely Lokenath Sarkar and Mithun Pramanick @ Niranjan was present during the seizure, digital weighing machine from local vegetable seller was collected. During search 104.600 kgs of ganja was seized from the car. Such search and seizure was done between 02:45 P.M. to 03:45 P.M. and the present petitioner was arrested thereafter. The ground of arrest along with the memo of arrest was served in accordance with the provision of law.

It was emphasized that videography of whole of the search and seizure was done by the Investigating Agency and as such the arguments of the petitioner in respect of local independent witnesses being absent during the search are without any foundation. To that effect learned advocate for the state relied upon the seizure list. On behalf of the state attention of the Court was drawn to the relevant pages of the case diary for emphasizing that the petitioner booked the car from a reputed car rental app called Zoom Car on 21.02.2025 and there were multiple traffic violation which was received by registered owner of the car. To that effect complaint was also lodged by the owner of the car namely Nur Alam Answari.

It was further contended that as cases under the NDPS Act revolved around recovery of Narcotic substances, so according to the mandate of the Hon'ble Supreme Court videography of the search and seizure was done for reflecting fairness and impartiality in the seizure process.

Learned Advocate thereafter rebutted the contention of the petitioner with regard to the accusation of manipulation relating to the report as well as the time which has been mentioned in the seizure list. It was contended that the attending materials collected by the investigating agency would go to show that the same were clerical errors and no design can be attributed to wrongfully detain the petitioner under the NDPS Act.

It was further contended that the issue relating to Section 52A of the NDPS Act at this stage is of no relevance although the investigating authority adhered to the letters of law and to that effect the inventory list along with the malkhana registers where the seized items were kept was placed before the Court.

Learned Advocate thereafter relied upon ***Bharat Aambale -versus- State of Chhattisgarh*** reported in **(2025) 8 SCC 452** and relied upon paragraph 24.2 which is as follows:

“24.2.*Secondly*, Section 52-A sub-section (2) prescribes the procedure for the purpose contemplated under sub-section (1) i.e. for the disposal of the seized contraband. Any breach, deviation or delay in the said procedure would at most be termed as an irregularity and not an illegality which would nullify or vitiate the entire case of the prosecution. Mere non-compliance of the procedure envisaged under

Section 52-A of the NDPS Act will not entitle the accused to acquittal or bail, if there is sufficient material to establish the search and seizure of the contraband in due compliance of the mandatory provisions of the Act. The relevant observations read as under: (*Kashif case* [*Narcotics Control Bureau v. Kashif*, (2024) 11 SCC 372] , SCC pp. 390, 395-96, paras 32-35, 46-47 & 50)

“32. As demonstrated above, sub-section (2) of Section 52-A specifies the procedure as contemplated in sub-section (1) thereof, for the disposal of the seized contraband or controlled narcotic drugs and psychotropic substances. Any deviation or delay in making the application under sub-section (2) by the officer concerned to the Magistrate or the delay on the part of the Magistrate in deciding such application could at the most be termed as an irregularity and not an illegality which would nullify or vitiate the entire case of the prosecution.

33. The jurisprudence as developed by the courts so far, makes clear distinction between an “irregular proceeding” and an “illegal proceeding.” While an irregularity can be remedied, an illegality cannot be. An irregularity may be overlooked or corrected without affecting the outcome, whereas an illegality may lead to nullification of the proceedings. Any breach of procedure of rule or regulation which may indicate a lapse in procedure, may be considered as an irregularity, and would not affect the outcome of legal proceedings but it can not be termed as an illegality leading to the nullification of the proceedings.

34. Section 52-A was inserted only for the purpose of early disposal of the seized contraband drugs and substances, considering the hazardous nature, vulnerability to theft, constraint of proper storage space, etc. *There cannot be any two opinions on the issue about the early disposal of the contraband drugs and substances, more particularly when it was inserted to implement the provisions of International Convention on the Narcotic Drugs and Psychotropic Substances, however delayed compliance or non-compliance with the*

said provision by the officer concerned authorised to make application to the Magistrate could never be treated as an illegality which would entitle the accused to be released on bail or claim acquittal in the trial, when sufficient material is collected by the Investigating Officer to establish that the Search and Seizure of the contraband substance was made in due compliance with the mandatory provisions of the Act.

35. It is significant to note that as per Section 54 of the said Act, the courts are entitled to presume, unless and until the contrary is proved that the accused had committed an offence under the Act in respect of any narcotic drug or psychotropic substance, etc. for the possession of which he failed to account satisfactorily. Therefore, unless such statutory presumption is rebutted by the accused during the course of trial, there would be a prima facie presumption that the accused had committed the offence under the Act, if he is found to have possessed the contraband drug and substance, and if he fails to account therefor satisfactorily, as contemplated in the said provision of Section 54. An anomalous situation would arise if a non-compliance or delayed compliance with Section 52-A is held to be vitiating the trial or entitling the accused to be released on bail, though he is found to have possessed the contraband substance, and even if the statutory presumption is not rebutted by him. Such could not be the intention of the legislature.”

I have taken into account the submissions of learned advocate appearing for the Petitioner as well as learned advocate appearing for the State and is of the opinion that the provisions of Section 37 of the NDPS Act relating to bail of the accused emphasise on twin conditions, one of them being that the Court believes that petitioner is not guilty of offence. So far as the issue relating to inventory list and the delay is concerned for production of the seized materials before the learned Magistrate prima facie the state

has been able to display before this Court that they have complied with the provision of law. Further the Hon'ble Apex Court has held that in relation to non-compliance of Section 52A of the NDPS Act, mere non-compliance will not entitle the accused either to be acquitted or released on bail. As such to overcome the threshold/rigors of Section 37 of the NDPS Act, Section 52A of the said act has no relevance.

The additional issues which have been canvassed relating to correction in the seizure list and or the State Drugs Control Report the same are issues relating to trial and at this stage, I am of the view do not favour the accused for being released on bail.

Consequently, the prayer for bail of the petitioner in CRM (NDPS) 1126 of 2025 is **dismissed**.

All concerned 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 judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)