01.10.2026

Court No.35.
D/L. 473 & 474
Suman (PA)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION

CRR No. 3745 of 2026
in
CRM (NDPS) 1598 of 2026

Court on it's Own Motion
-versus-
Alam Khan @ Alim

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/under Section 483 of the BNSS, 2023 in connection with Kaliachak PS Case No. 128 of 2026 dated 23.01.2026 u/s 21(c)/27A/29 of the NDPS Act.

Mr. Sekhar Kumar Basu, Sr. Adv.,
Mr. Narattam Acharya,
Mr. Sunayan Ghosh,
Mr. Avijit Chatterjee

.....for the Opposite Party.
(Alam Khan alias Alim)

Mr. Kallol Mondal, Ld. PP,
Mr. Debangan Bhattacharjee,
Mr. Bibaswan Mukherjee

.....for the State.

1. The prosecution in this case commenced on the written complaint lodged by Sub-Inspector of Police Siddarth Rai against arrested accused persons namely (i) Md. Taslim Sk, (ii) Md. Abdullah, (iii) Rajib Sk, (iv) Md. Tajel Sk. (v) Samim, (vi) Mursalim Sk. (vil) Khursed, (viii) Murshed all of PS - Kaliachak, Dist- Malda and other accused persons involved to the effect that on 24 - 25.01.2026 in between 23:20 hrs and 02:50 hrs the complainant received information from reliable source that some persons of Nayagram and Immamjagir will be preparing / selling / dealing in contraband

Narcotic substance "Brown Sugar" in the Litchi / Mango orchard located at Maheshpur, Sersahi. After that the complainant along with other officer and force reached Maheshpur and met with the source person. The complainant then proceeded inside the Mango/ litchi orchard as indicated and guided by the Source person to work out the source information. After that the complainant noticed that 8 to 10 people are doing something. Police team slowly approached towards them but as the police team approached near them, they sensed the presence of police and tried to run away, at that time the police team were able to apprehend 04 accused persons. The rest were able to run away. Though police team chased them but they succeeded in escaping inside the Orchard in the darkness.

2. I have considered the order dated 12.08.2026, wherein the attention of the Court was never drawn to the total recovery in the present case, which is about 4.350 kgs of brown sugar. Cryptically, it was pointed out that only 303 grams of brown sugar was recovered from the possession of the present petitioner along with other co-accused persons. This Court, therefore, applied the principles and findings of Sentu Sk. vs. State of West Bengal [SLP (Criminal) No. 13987 of 2025].

3. The bail application was scanned through and it was found that, in respect of the total quantity recovered, in one paragraph it was referred to as 2.401 kg, and in another paragraph it was narrated that 303 grams of brown sugar was recovered from the possession of the present petitioner along with other co-accused persons. This Court, being dissatisfied, subsequently issued rule on its own motion, thereby calling

upon the accused petitioner on bail application to show-cause why the petitioner's prayer for bail should not be cancelled.

4. An answer to the show cause notice, in the form of an affidavit, was filed on behalf of the opposite party herein and the petitioner in the bail application. In answer to the show cause, the petitioner, in paragraph 6, categorically dealt with the issue that the recovery in the present case was initially 2.401 kg of brown sugar from a litchi/mango orchard. Thereafter, the petitioner was arrested on 31.01.2026 and, during his police custody on 04.02.2026, 303 grams of brown sugar was again recovered. Subsequently, other accused persons were arrested and, on subsequent dates during their custody, 447 grams, 603 grams and 597 grams of brown sugar were recovered.

5. Such elaborate manner of presenting the total recovery was never adopted when the bail application was preferred before this Court. Neither of the parties, including the State, brought the same to the notice of this Court. The case was presented in a manner to suit the judgment of Sentu Sk. (supra), as if there was only recovery of 303 grams of brown sugar from the petitioner and other co-accused persons.

6. The bail application and the answer to the show cause filed by the accused, do not furnish any details relating to his criminal antecedents. Learned Public Prosecutor appearing on behalf of the State submitted a report which reflects that there are two criminal antecedents of the petitioner which are as follows:

(i) Kaliachak P.S. Case No. 531 of 2021 dated 19.05.2021 under Sections 21(C)/29 of the NDPS Act.

(ii) Kaliachak P.S. Case No. 311 of 2021 dated 15.03.2021 under Sections 147/148/149/186/188/326/307/332/333/353/363/379/120(B) of the Indian Penal Code and Sections 25/27 of the Arms Act, 1959 and Section 9 of the West Bengal Maintenance of Public Order Act, 1972.

7. The Hon'ble Supreme Court in the Judgment of ***Zeba Khan -versus- State of U.P. and Others,*** reported in 2026 SCC OnLine SC 188 has streamlined the disclosure relating to material facts in all bail applications. The relevant paragraphs are quoted below:

> *"**DISCLOSURE OF MATERIAL FACTS IN BAIL APPLICATIONS - GUIDING PRINCIPLES AND SUGGESTIONS***
>
> ***42.*** *It has been consistently emphasised by this Court that an accused or applicant seeking bail is under a solemn obligation to make a fair, complete and candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. Any suppression, concealment or selective disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice.*
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> ***43.*** *In the present case, Respondent No. 2 deliberately concealed his criminal antecedents before the High Court, both in the petition for quashing FIR as well as in successive bail applications. Even before this Court, only partial disclosure was made in the counter-affidavit, despite the existence of multiple criminal cases on record. This conduct cannot be viewed as an isolated lapse but reflects a growing and disturbing trend of accused persons securing discretionary relief by suppressing material facts.*

> ***47.*** *As repeatedly observed by this Court, bail applications are examined at multiple stages - from the trial Court to the High Court and ultimately this Court - where courts are often constrained to take a prima facie view on incomplete or selectively presented records. Non-disclosure of material aspects such as criminal antecedents, prior bail rejections, duration of custody, compliance with constitutional and statutory safeguards, and the progress of trial may result in the unwarranted grant of bail, or conversely, the prolonged incarceration of accused persons despite substantial custody having already been undergone.*
>
> ***48.*** *Thus, this Court is of the view that every petitioner or applicant seeking bail, at any stage of proceedings, is under an obligation to disclose all material particulars, including criminal antecedents and the existence of any coercive processes such as issuance of non-bailable warrants, declaration as a proclaimed offender, or similar proceedings, duly supported by an affidavit, so as to promote uniformity, transparency and integrity in bail adjudication."*

8. Having considered the suppression of material facts in the bail application including the antecedents of the present accused not being canvassed or brought to the notice of the Court when the bail was granted by this Court on 12.08.2026 in CRM (NDPS) 1598 of 2026. I am of the opinion, that the order was passed without full facts being presented before the Court as such the said order is required to be recalled.

9. Consequently, the order of bail granted on 12.08.2026 is hereby recalled. The bail granted to the petitioner is hereby **cancelled**. Petitioner is directed to surrender forthwith within a period of 72 hours before the Jurisdictional Special Court in seisin of the case forthwith, preferably within 74 hours.

10. Rule is made absolute.

Accordingly, **CRR No. 3745 of 2026** is allowed.

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

(Tirthankar Ghosh, J.)