

27.04.2026
Item no.03.
Court No.5.
KAUSHIK
(Allowed)

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

CRM (A) 129 of 2026

In Re: An Application for Anticipatory Bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sitalkuchi Police Station Case No.651 of 2025 dated 29.12.2025 under Sections 21(C)/29 of the NDPS Act.

And

In the matter of :Sushanta Barman.

.....Petitioner.

Mr. Anirban Banerjee
Mr. Mokleshwar Rahaman
.....for the Petitioner.

Mr. Tapan Bhattacharjee
Mr. Kallol Nag
.....for the State.

Following the incident of the alleged recovery of 51 bottles of Eskuf Cough Syrup, a syrup containing codeine phosphate, from one Susanta Burman, son of Upen Burman, the present proceedings were initiated.

Mr. Banerjee, learned Advocate appearing for the petitioner, submits that the present petitioner has been implicated in this case solely on the basis of a confessional statement made by a co-accused person. He submits that it is a well-settled proposition of law that a confessional statement recorded under Section 67 of the NDPS Act has no evidentiary value in the eye of law. He further submits that unless the prosecution brings on record other incriminating materials to justify the detention of

a person, his personal liberty cannot be curtailed. He also submits that, in similar cases, false implication has become a regular phenomenon. He contends that the present accused person is a victim of such false implication.

The record reveals that a Co-ordinate Bench of this Court, by its order dated 23rd March, 2026, noted the submission made on behalf of the State that some additional time was required to obtain information regarding call detail records and the money trail.

A report dated 25th April, 2025 has been submitted by the Investigating Officer, wherein it is stated that the petitioner has no criminal antecedents and that there are neither any monetary transactions between the principal accused and the present petitioner nor any call records found connecting them. Therefore, it is evident that, except for the statement of the co-accused recorded under Section 67 of the NDPS Act, the prosecution has no other incriminating material against the present accused, at least as on date. In the decision of *Santu Saha* in CRM 10818 of 2020, a Division Bench of this Court, referring to the decision in *Tofan Singh vs. State of Tamil Nadu*, reported in 2020 SCC OnLine SC 882, held that in the absence of any substantial material against an accused, except the confessional statement of a co-accused, the same may at best give rise to mere suspicion, and the rigours of Section 37 of the NDPS Act would not be attracted in such a situation. The proposition laid down in *Santu Saha (supra)* is binding upon me and therefore, taking note of the fact that, except for the confessional statement of the co-accused, there is no other incriminating material against the present accused and applying the proposition laid down in in

Santu Saha (supra) ,I am of the view that the benefit under Section 482 of the BNSS can be extended in favour of the present petitioner.

Accordingly, the application is allowed and it is directed that, in the event of arrest,the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of Rs. 5,000/- (Rupees Five Thousand only) each, one of which must be local, to the satisfaction of the **learned Special Court under NDPS Act,Coochbehar**, and subject to the conditions laid down under Section 482(2) of BNSS.

Accordingly, CRM (A) 129 of 2026 is **allowed**.

All parties shall act in terms of server copy of the order 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 with all requisite formalities.

(Partha Sarathi Chatterjee, J.)