

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

CRR 86 of 2026

Hero Sarkar

Vs.

Union of India through Intelligence Officer Narcotics
Control Bureau

For the Petitioner : Mr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwal
Mr. Mantu Mandal
Ms. Sunayana Parveen
Mr. Bappaditya Roy

For the Opposite Party : Mr. S.K. Mazumdar, ld. DSGI
Mr. S.K. Paul

Last heard on : 23.03.2026

Judgement delivered on : 23.03.2026

Jay Sengupta, J. :

This is an application challenging the onerous conditions imposed on grant of bail in the order passed on 23.09.2025 by the learned Additional Sessions Judge, 1st Court (NDPS), Cooch Behar in NDPS Case No.46 of 2023 arising out of NCB Crime No.26/NCB/KOL/2023 dated 26.08.2023 under Section 8(c) read with Section 20(b)(ii)(c) of the NDPS Act.

Learned counsel for the petitioner submits that by an order dated 28.03.2025, a Division Bench of this Court was pleased to reject the prayer for bail of the petitioner at that stage by granting liberty to the petitioner to pray for regular bail before the learned trial court in the event the trial could not be completed within six months. It was also directed that in the event the trial Court thought that interim bail could be granted before six months and there was no chance of completion of trial within six months, interim bail with stringent conditions might be granted. In fact, the trial could not be completed neither six months elapsed. One witness is still left to be examined. By an order dated 23.09.2025, learned Trial Judge, 1st Court (NDPS), Cooch Behar considered the petitioner's prayer for bail in pursuance of the liberty granted by the High Court and was pleased to allow the same subject to certain conditions. Among other things, the petitioner was directed to be released on interim bail within four weeks upon furnishing bond of Rs.50 lakhs with three sureties subject to the satisfaction of the learned Chief Judicial Magistrate, Cooch Behar. Surety No.1 must be a court registered surety for Rs.10 lakhs. Surety No.2 would be to the tune of Rs.30 lakhs. The said surety ought to submit a deed of a property situated within the jurisdiction of Kotwali Police Station, Cooch Behar and the valuation of the property should be to the tune of Rs.10 lakhs. The person should be a permanent inhabitant of the place. Surety No.3 was to be a responsible person of the locality like Professor, registered doctor attached to government hospital or medical institution or teacher of a government school of the locality. Thus, such onerous conditions were placed that the petitioner would not be able to

obtain bail. This is a clear attempt to circumvent the directions passed by the High Court. It is trite law that such onerous conditions cannot be imposed in case of grant of bail or other kind of liberty to the petitioner that cannot be fulfilled. The petitioner is a person of ordinary means and cannot, by any stretch of imagination, fulfil such stringent conditions regarding sureties. In fact, the conditions imposed are absurd and absolutely unheard of, even in the most serious of cases.

Learned counsel for the NCB opposes the prayer for modifying the conditions. However, he submits that it may not be possible for an ordinary citizen to fulfil the stringent conditions imposed regarding sureties.

From the impugned order dated 23.09.2025, it is apparent that the stringent conditions imposed by the learned trial court on the grant of interim bail to the petitioner are such that cannot be fulfilled by an ordinary man.

In a way, this order only pays a lip service to the liberty granted by this Court to the petitioner to pray for bail in the event the trial could not be completed within six months.

It is settled law that such onerous conditions cannot be imposed by a court while granting bail or other reliefs pertaining to personal liberty of an individual that cannot be fulfilled by such individual.

Considering the above, this Court modifies the conditions of interim bail imposed by the learned trial court on 23.09.2025 as hereinafter. Instead of the bond of Rs. 50 lakhs with three sureties as directed by the learned trial Court, the petitioner shall be released on interim bail for four

weeks on furnishing a bond of Rs.30,000/- with three sureties of equal amount each, one of whom must be local. This shall be subject to the satisfaction of learned Chief Judicial Magistrate, Cooch Behar. The onerous condition contained at Clause (d) of the order shall be replaced by a condition that the petitioner shall inform the investigating officer and the trial court about the place where he was going to reside after granting of bail. The rest of the conditions of interim bail, as imposed by the learned trial court shall remain the same.

Learned Chief Judicial Magistrate/Judge-in-Charge, Cooch Behar shall accept necessary documents in this regard within four weeks from this date.

With these observations and directions, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)