

15.06.2026
Court No.4
Item No.2
SN

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CRM (NDPS) 269 of 2026

In Re: - An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of
the Code of Criminal Procedure, 1973.

And

In the matter of: **Md. Akhtar Ali @ Aktar Ali**

....Petitioner.

**Mr. Sourav Ganguly,
Mr. Naser Ali,
Ms. Rishita Chakraborty**

...For the Petitioner.

**Mr. Jagriti Mishra, AAAG
Mr. Debabrata Rai**

...For the State.

1. The learned counsel representing the petitioner has on the earlier occasion stated in details as regards to tests, i.e. qualitative and quantitative tests done in respect of the seized substance. He has also brought to the notice of the Court Section 2(XVI) of the Narcotic Drugs and Psychotropic Substances Act, 1985, wherein “opium derivatives” have been mentioned in details. The learned counsel has today stressed upon the issue of qualitative tests. He has produced an order of the Hon’ble Apex Court in Writ Petitions (Civil) No. 816 of 2025 and has submitted that the judgment passed in ***Hira Singh & Anr. vs. Union of India & Anr.*** by the Hon’ble Apex Court published in **(2020) 20 SCC 272** has been reopened and is being considered afresh by the Hon’ble Apex Court.

The learned counsel has stressed upon the fact that as in the judgment of the Hon'ble Apex Court in **Sentu Seikh Vs. State of West Bengal**, arising out of **SLP (Crl.) No. 13987/2025** therein also three substance had been present, being combination of Morphine, Codeine and Thebaine. Embarking upon the aforesaid facts and circumstances, the learned counsel has sought for bail.

2. The learned AAAG during his submission has stressed upon the point that in case of Bharat Chowdhury, which has been referred by the petitioner, published in (2021) 20 SCC 50, tablets were recovered from the person, many more things were to be obtained and samples were not taken as per law. The learned counsel on behalf of the State has also stressed upon the point that while passing the order in **Sentu Seikh (supra)**, **Hira Singh (supra)** has not been taken into consideration. In the judgment passed in Hira Singh, it has been laid down that the entire content is to be taken into consideration including the "neutral substance."

3. In the present case, 267 gms of brown sugar has been recovered which is much higher in quantity than the base level for consideration as commercial quantity. Stressing upon these issues, the learned counsel for the State has prayed for rejection of the application seeking bail.

4. Firstly, while considering the judgment passed in **Bharat Chowdhury (supra)**, it transpires that the substance seized weighed 90 kgs. collectively having a combination of different types

of tablets. In paragraph 13 of the said judgment, it has been categorically stated as follows:-

“.....Further, a large number of the tablets that have been seized by DRI admittedly contain herbs/medicines meant to enhance male potency and they do not attract the provisions of the NDPS Act. Most importantly, none of the tablets were seized by the prosecution during the course of the search conducted, either at the office or at the residence of A-4 at Jaipur, on 16-3-2020.....”

5. So, while considering **Bharat Chowdhury (supra)**, it has come to light that there were several other substances mixed which were not within the category of narcotic drugs and psychotropic substances.

6. In respect of **Sentu Seikh (supra)**, there has been combination of Morphine, Codeine and Thebaine, which appear to be heroine. In this context, this Court relies upon the judgment of **Hira Singh (supra)**, which takes into consideration the entire substance which was seized, that includes “neutral substance”, the said judgment been passed by Hon’ble Three Judges Bench of the Hon’ble Apex Court. In this very case, 267 gms. of brown sugar has been seized which tantamounts to commercial quantity much above 250 gms. of the substance, which has been designated as the base level for being considered as commercial quantity.

7. In view of the aforestated facts and circumstances, this Court is not inclined to pass an order of bail. Hence, the prayer for bail is rejected.

8. The case diary is returned to the learned Assistant Additional Advocate General in Court today.

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

(Supratim Bhattacharya, J.)