S.L.18.
Ct. 05

07.10.2026
Bd.
Rejected.

**In the High Court at Calcutta**

**Circuit Bench at Jalpaiguri**
**CRM (NDPS) 483 of 2026**

**Sohela Khatun**

**Vs.**

**State of West Bengal & Anr.**

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS Case No. 47 of 2026 arising out of Matigara Police Station case no. 165 of 2026 dated 23.03.2026 under Sections 21(c) of the NDPS Act,

Mr. Niloy Chakraborty
Ms. Angana Rakshit
Ms. Avisikta Das
...for the petitioner

Mr. Avrojyoti Das
Ms. Ruchira Agarwal
Mr. Rajdeep Das ... for the State.

Petitioner's contention is that she being a female accused has been falsely implicated on the basis of mere suspicion. She has no nexus with the recovery of alleged contraband.

The petitioner further submits that the entire search and recovery of the alleged contrabands suffer from grave violations of the mandatory provisions of law laid down in section 50 of the NDPS Act. She was detained on her own house and as per written complaint no arrest warrant or search warrant or authorization was obtained before hand to conduct the search and seizure inside a private property, which rendering the entire recovery doubtful. The petitioner is languishing in custody since 23rd March, 2026. The petitioner has a son who is 90%

differently abled child and the other son is aged about 6 years old and there is none to look after the children of the petitioner.

He further submits that from the FIR it discloses that the petitioner had agreed to be searched in presence of Special Executive Magistrate but the search and seizure was conducted in presence of one Inspector-in-Charge going against her consent. The LTI appearing in the memo of arrest also does not state in whose pen it was taken and therefore it is clear that the petitioner did not get opportunity to inform her relatives immediate after arrest.

In support of his contention that non-compliance of the mandatory procedure prescribed under section 50 of the NDPS Act, is fatal to the prosecution case he relied upon the judgment of **Arif Khan alias Agha Khan –vs- State of Uttrakhand,** reported in **(2018) 18 SCC 380.** Therefore, he submits that when it is certain that the trial will end in acquittal due to violation of mandatory provisions there is no requirement to detain the petitioner in custody for an indefinite period.

Learned counsel for the State submits that the seizure list clearly discloses that the contraband was recovered from the exclusive possession of the present petitioner.

He further submits that Inspector-in-Charge in whose presence the search and seizure was made is also a Gazetted Officer. Now, whether the search and seizure has

caused prejudice to the petitioner or not shall be decided during trial but at this stage the procedural irregularities, if any, cannot be considered for the purpose of disposal of the petitioner's bail application.

I have considered the submissions made on behalf of both the parties.

It appears from the seizure list that the rigours of section 37 of the NDPS Act, clearly attracts in respect of the present petitioner in the instant case, and therefore, the prayer for bail made by the petitioner is considered and rejected.

However, it is submitted that the charge-sheet has already been submitted on 30th June, 2026 against the petitioner.

In such circumstances, the Trial Court is directed to expedite the charge hearing and to conclude the charge hearing preferably within a period of three months from the next date of hearing.

Accordingly, CRM (NDPS) 483 of 2026 stands disposed of.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

**(Dr. Ajoy Kumar Mukherjee, J.)**