D/L 25

25.11.2026
Rohit/Chanchal
A.R.(Ct.)
ct.no.5

In the High Court at Calcutta

Criminal Miscellaneous Jurisdiction
Circuit Bench at Jalpaiguri

C.R.M (NDPS) 533 of 2026

Waseem Khan & Anr.
Vs
The State of West Bengal

In Re: An Application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Alipurduar Junction GRP** Police Station Case No. **16 of 2025** dated **27.06.2025** under Sections **8(c)/20(b) (II) (C)/29** of the NDPS, 1985.
And
In the matter of : Waseem Khan & Anr.

...Petitioners.

Mr. Kanak Mishra

...for the Petitioner

Mr. Avrojyoti Das, Ld. A.P.P
Mr. Bapi Sarkar
Mr. Supratim Nag

...for the State

1. The learned Advocate representing the petitioners submitted the lady petitioner contrary to the contention on behalf of the investigating agency to have been a married couple had no proximate relationship with petitioner no.1 and had been falsely detained on account of recovery of joint possession of 25.53 kgs of narcotic substance, namely, ganja. From distinct seized articles which individually contained the same of intermediate quantity but had been deliberately clubbed together to constitute commercial quantity at the instance of the investigating agency. The petitioners had been in custody since 27.6.2025. The petitioners were apprehended from the railway platform of New Alipurduar railway station where both of them had been tourists without

any involvement in the alleged offence. Considering the period of custody and the charges to have been framed seeks for prayer for bail.

2. The learned advocate representing the petitioners relied upon the decisions cited in ***2005 7 SCC 550 (Amarsingh Ramjibhai Barot –Vs- State of Gujarat)*** in Paragraph 8 to 10 emphasizing the lack of conspiracy between the present petitioners and the contraband articles to be dealt in isolation rather than in aggregation. Paragraph 25 of the decision cited in ***2025 SCC Online SC 1779 (Nadeem Ahamed-Vs- State of West Bengal)*** was also relied on similar lines as aforesaid.

3. The learner Advocate representing the State referred to page 14 of the Case Diary whereby the seizure list mentioned recovery of the seized articles aggregating a total weight of 25.53 of the contraband article, namely, Ganja complying the process of search and seizure under videograph being signed by the petitioners. It was further urged the petitioners to be residents of Uttar Pradesh being actively involved in the transactions of contraband substances. There is every possibility of the petitioners to abscond and impede the process of law if the petitioners are enlarged on bail. Moreover next date has been fixed by the Trial Court for examination C.S.W.1.

4. The learned Advocate representing the petitioner referred to the aforesaid judgments which determined the points agitated on conclusion of trial upon scrutiny and assessment of evidence before the concerned Court against which the

Hon'ble Supreme Court set forth its observations in an appeal.

5. In the instant case, at a premature stage of considering the application seeking prayer for grant of bail, this Court is incumbent upon considering the restrictions under Section 37 of the NDPS act and it is rebuttal if any too facilitate the petitioner to be enlarged on bail. The seizure list reflected the process of videography whereby commercial quantity of Ganja had been recovered from the joint possession of both the petitioners. This court cannot act as a Trial Court and conduct a mini trial at the stage of considering the instant application to segregate the contraband articles within the bracket of either small quantity, intermediate quantity, or commercial quantity. The rigours of Section 37 of NDPS Act having failed to be overcome, the petitioners are not entitled to a prayer for bail.

6. Accordingly, CRM (NDPS) 533 of 2026 is **dismissed**.

7. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Ananya Bandyopadhyay, J.)