

2.
14-01-2026
(ct. no.04)
debajyoti
(rejected)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CRIMINAL MISCELLANEOUS JURISDICTION
Appellate Side

CRM (NDPS) 475 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with Dinhata Police Station Case No.119 of 2025 dated 07-03-2025 under Sections 21(c) and 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Tapash Roy

.... Petitioner.

Mr. Sanjoy Majumdar, Adv.,
Ms. Madhushree Dutta, Adv.

... For the Petitioner.

Mr. Aditi Shankar Chakraborty, learned APP,
Mr. Aniruddha Biswas, Adv.

... For the State.

1. Submission advanced on behalf of the learned advocate of the petitioner that the petitioner has been falsely implicated in this case and is no way connected. He is in custody since March 07, 2025, and his application for bail was lastly rejected on September 2025. The learned advocate appearing on behalf of the petitioner points out the procedural irregularities in compliance with the statutory obligation under section 42(2) of the NDPS Act, 1985, and also there is no mention of any effort by directing any officer to apprise the petitioner of his right to legal counsel. The failure to communicate this fundamental safeguard amounts to a violation of the petitioner's constitutional right and renders the arrest procedurally defective.

2. The learned advocate relied upon the a decision reported in **2025 INSC 1288 (Mihir Rajesh Shah versus State of Maharashtra and Another)** and submits that

since in the decision of *D.K Basu and state of West Bengal*, guidelines were framed regarding arrest and detention, which was subsequently taken note of by the Hon'ble Supreme Court in various other cases, including ***Pankaj Bansal versus Union of India and Others*** reported in **2023 INSC 866**, ***Prabir Purakayastha versus State of NCT of Delhi*** reported in **(2024)8 SCC 254** and ***Vidhan Kumar vs State of Haryana*** reported in **(2025)5 SCC 799**.

3. Learned prosecution, on the other hand, raises strong objection. It is submitted that huge amount of *Ganja* was recovered following all the statutory obligations. The procedural irregularities, as raised by the learned advocate of the petitioners, are subject matter of the trial. The chargesheet has been submitted and the schedule is fixed for taking evidence and granting of bail to the accused person will have an adverse effect in the trial.

4. Heard the submissions of the learned advocates for the parties. At the outset, it is seen that the matter pertains to huge quantity of *Ganja* in 11 different bags containing 166 kg. The accused person was apprehended while filling up gunny bags with *Ganja* like substance from his bedroom. On completion of investigation, charge sheet has been submitted and according to the prosecution, all formalities were duly complied with and question of violation of procedural irregularities does not arise. The decision of the Hon'ble Supreme Court passed in ***Mihir Rajesh Shah versus State of Maharashtra*** (supra.) held that the aims of fairness and legal discipline, therefore, demand that the procedure as found shall govern arrest henceforth. In this case, the arrest was made on March 07, 2025 and the judgement of the Hon'ble court was passed in the month of September 2025. However, even if it is considered that there are any procedural laches, in view of the huge quantity of the contraband seized from the petitioner, this Court is of the view that in the event

of granting of bail at this stage in respect of such huge contraband, there would be a serious social impact. In the decision of ***NCB vs Kashif*** reported in ***2024 INSC 1045***, the Hon'ble Supreme Court discussed about the aim and object of the scheme while considering the hearing of bail petition in connection with NDPS Act. Therefore, this Court does not find that the petitioner has been able to satisfy the Court to have reasons to believe in terms of Section 37 of the NDPS Act that the offence has not been committed by the petitioner and, hence, the prayer for bail stands refused.

5. The application for bail is, thus, **rejected**.
6. Let the Case Diary be returned.
7. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
8. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

[Chaitali Chatterjee (Das), J.]