IN THE CIRCUIT BENCH OF
CALCUTTA HIGH COURT AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

25.11.2026
Ct No.5
Item No.27
PA

CRM (NDPS) 628 of 2026

In Re:- An application for Bail under Section 483 of the Bharatiya Ngarik Suraksha Sanhita, 2023.

And

Rejected

In Re: **Akash Sonar @ Aakash Sonar**

...Petitioner

Mr. Sourav Ganguly, Adv.
Mr. Gopal Roy, Adv.
Ms. Rishita Chakraborty, Adv.

...for the petitioner

Mr. Avrojyoti Das, Ld. A.P.P.
Ms. Panchali Deb Sikder (Nag), Sr. Gov. Adv.

...for the State

1. The Learned Advocate representing the petitioner referred to one reservation slip in the Seizure List denoted as Item No.34 and sought for its production and the same was allowed vide Order dated 20.11.2026. In compliance with the aforesaid Order, the Learned Advocate representing the State has placed a forwarding report filed on behalf of STF, West Bengal (Siliguri Unit) whereby the reservation slip had been annexed which did not project the name of the present petitioner to be a passenger of Padatik Express for his journey on 13.10.2025 from New Cooch Behar to Sealdah.

2. The Learned Advocate representing the petitioner submitted the petitioner to have been falsely implicated in the instant case as he procured a ticket with PNR No.6821796525 to board Saraighat Express at 17:32 hrs. on Monday, October 13, 2025 to travel from New Cooch Behar to Bardhaman Junction. He had been stationed at the waiting room at the railway platform at New Cooch Behar Railway Station and on a raid conducted by the STF, West Bengal (Siliguri Unit), was arrested along with co-accused persons from whose possession contraband articles, i.e., *'Ganja'* to the extent of 246.404 kgs along with five (05) mobile phones fitted with SIM Cards and other articles as mentioned in the Seizure List, were recovered. Though his signature appeared on the Seizure List, his direct implication in the instant case was obliterated owing to his innocence and being a traveller to his native place from his place of avocation at Cooch Behar functioning as a cook. The seizure of the contraband article from the joint possession of the accused persons could not attribute criminality to the petitioner for dearth of knowledge and active participation in the alleged offence being a normal passenger without any criminal antecedents and should be entitled to be released on bail.

3. The Learned Advocate representing the State referred to page 28 to 32 of the case diary being the Seizure List where the signature of the petitioner appeared conforming to the joint conscious possession of the contraband articles as aforesaid along with the signature of the co-accused persons. It was further submitted that the grounds of arrest was communicated to the petitioner who

acknowledged conscious joint possession of the contraband articles as aforesaid. The process of search, seizure and recovery of the aforesaid quantity of *'Ganja'* from the joint possession of the petitioner and the co-accused persons had been videographed according to the statutory mandate. The CAF of the petitioner had been referred to by the Learned Advocate representing the State emphasizing on the tower locations of mobile number of the petitioner with regular and frequent movements from Bardhaman to Dewanhat, Bhetaguri Cooch Behar and return journey on the next date from Cooch Behar to Bardhaman on 6th of October, 2025, 7th of October, 2025 to 8th of October, 2025 respectively. His subsequent journey again from Bardhaman to Cooch Behar and return to Bardhaman was detected from tower locations on 09.10.2025 to 10.10.2025. On 10.10.2025, the petitioner went to Kulgachia, Birshibpur Howrah (Uluberia). On 12.10.2025 the petitioner travelled from Howrah to Bardhaman and, thereafter, on his way to return on 30th of October, 2025, was detained at New Cooch Behar Railway Station.

4. It was further agitated that the statement of disclosure of the petitioner with regard to his movements as aforesaid to deliver *'Ganja'* corroborated the mobile tower locations. The petitioner having failed to allay the stringent conditions under Section 37 of the NDPS Act shall not be released on bail.
5. Considered the rival contentions of the Learned Advocates representing the respective parties.

6. The materials collected from investigation as reflected in the case diary disclose the following circumstances concerning the alleged involvement of the petitioner in the commission of the offence:-

(a) **Seizure List pages 28-32:** The Seizure List records the joint conscious possession of the petitioner along with the other co-accused persons in respect of the contraband articles. The documents bear the signature of the petitioner.

(b) **Ground of arrest at page 40:** The ground of arrest informed to the petitioner refers to conscious possession of *'Ganja'*.

(c) **Videography of search and seizure (pages 54-58):** The search and seizure proceedings, including the recovery of *'Ganja'* were videographed. The videographic record constitutes material collected during investigation concerning the recovery. The Call Detail Records at page 210 of the case diary indicated the CDR of the petitioner to have been collected and examined during investigation.

(d) **Mobile tower locations (pages 211-220):** The mobile tower locations corresponding to the mobile number of the petitioner disclose his movements during the period from 6th October, 2025 to 13th October, 2025. The relevant movements as reflected in the collected data, are summarized below:-

6th October, 2025- Movement from Bardhaman towards Dewanhat and Bhetaguri in Cooch Behar

7th–8th October, 2025- Movement from Cooch Behar towards Bardhaman.

9th–10th October, 2025- Movement from Bardhaman to Cooch Behar and, thereafter, back to Bardhaman.

10th October, 2025- The petitioner again proceeding towards Kulgachia, Birshibpur of Howrah in Uluberia area.

12th–13th October, 2025- Movement from Howrah to Bardhaman and, thereafter, towards Cooch Behar culminating in his detention at New Cooch Behar Railway Station.

7. The confessional statement of the petitioner at page 248 of the case diary attributed the statement of the petitioner which disclosed his movements from Cooch Behar to various places including Howrah for the purpose of delivering *'Ganja'*. The disclosed movements bear correspondence with the mobile tower locations collected during investigation. Though the Learned Advocate representing the State has relied on the confessional statement at page 248, the same to have been recorded under Section 180 of BNSS is devoid of evidentiary value and is inadmissible in law.

8. The conduct of the petitioner in view of his frequent course of journey as aforestated negates the claim of the Learned Advocate representing the petitioner to be working as a cook at Cooch

Behar in absence of the exact place of his function been mentioned by the petitioner. The signature on the Seizure List along with the signatures of the co-accused persons records the alleged joint conscious possession of the petitioner along with co-accused persons in respect of the contraband articles. The videographic record assumed significance in examining the circumstances in which the contraband was recovered and the participation attributed to the petitioner. The material collected during investigation is, therefore, not confined to a mere assertion of recovery by the Investigating Agency. The course of movements of the petitioner prior to his detention at New Cooch Behar Railway Station lend support to the prosecution's account of the movement of the petitioner.

9. The extent to which the location records establish his participation in the transportation or delivery of the contraband would, however, also depend upon other materials collected during investigation. The statutory restriction under Section 37 of the NDPS Act cannot be overlooked. Where the Learned Advocate representing the State opposes the prayer for bail, it is incumbent upon the Court to be satisfied that there have been reasonable grounds for believing that the petitioner is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The two conditions are cumulative. The expression "reasonable grounds" requires something beyond a mere *prima facie* assessment of the prosecution case.

10. In the present case, the prosecution relied upon the seizure records attributing joint conscious possession to the petitioner, the videographic record of the search and seizure proceedings, the CDR and mobile tower locations, implying *prima facie* involvement of the petitioner in transportation and delivery of *'Ganja'*. 246.404 kgs. of *'Ganja'* is of commercial quantity. The combined effect of the aforesaid materials, particularly the contemporaneous seizure records and the independent location data does not presently disclose circumstances furnishing reasonable grounds for believing that the petitioner is not guilty of the alleged offence. The statutory requirement of twin conditions of Section 37 of the NDPS Act could not be surmounted by the present petitioner and, accordingly, the prayer for bail is **rejected**.
11. Accordingly, CRM (NDPS) 628 of 2026 is **dismissed**.
12. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Ananya Bandyopadhyay, J.)