

11.02.2026

Item No.57

Ct.No.5

b.das

Allowed

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

C.R.M. (NDPS) 602 of 2025

In Re : An application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kotwali Police Station Case No. 286 of 2025 dated 19.03.2025 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.

And

In Re : **Shakti Nath Bhowmik @ Sakti Nath Bhowmik
& Ors.**

... Petitioners.

Mr. Sourav Ganguly
Mr. Bibek Tarafder
Ms. Rishita Chakraborty
Mr. Bibhash Kr. Nandi

... for the Petitioners

Mr. Nilay Chakraborty
Mr. Bhaskar Das

... For the State

The petitioner seeks bail primarily on two-fold grounds. First, the seizure of the allegedly contraband substance has not been videographed. Second, there is discrepancy between the substance seized and the substance analyzed.

Learned counsel for the petitioner has placed reliance on several authorities to indicate that under both the circumstances, the petitioner is entitled to bail.

Learned counsel for the State vehemently opposes the prayer.

I have considered the material on record.

The complaint clearly indicates that videography of search and seizure and labelling process was discontinued due to technical glitch of the video recording device.

In other words, the videography as mandated by this Court in CRM (NDPS) 492 of 2022 and CRM (NDPS) 493 of 2022 has not been done.

It appears from the description of the articles seized and sent for analysis that the packets contained greenish brown coloured dried and shredded vegetative flowering and fruiting material appeared to be branch-tops of plant bearing characteristic smell like that of cannabis.

Strangely, the certificate issued by the Magistrate under Section 52A (3) of the NDPS Act indicates that the packets sent for analysis contained dried leaf and branch like substance which were identified as ganja.

Ganja, as defined in Section 2(iii) (b) of the NDPS Act is the flowering of fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated.

The substance which were analyzed does not fall with the definition of ganja as laid down in the statute. It is different from the one that was seized and sent for analysis.

It is a fact that the petitioner has been accused of carrying contraband substance above commercial quantity.

However, in view of the fact that the seizure was not videographed and also, in view of the discrepancy between the articles seized and analyzed, this Court is inclined to hold that such lapse is likely to affect the merits of the case.

Without going into the merits of the case at this stage, this Court is inclined to release the petitioners on bail on the grounds stated hereinabove.

Accordingly prayer for bail is allowed.

The petitioners **Shakti Nath Bhowmik @ Sakti Nath Bhowmik, Sanju Bhowmik & Madan Sen** be released on bail upon furnishing bond of Rs.20,000/- (Rupees Twenty Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge (NDPS), Coochbehar subject to condition that they shall not leave the jurisdiction of the learned Trial Court. They shall appear before the learned trial Court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with any of the conditions as mentioned above without justifiable cause, the learned trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

Case Diary be returned.

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

(Suvra Ghosh, J.)