

In the Court of the Additional Sessions Judge, 1st Court (NDPS), Cooch Behar

NDPS Case No. 14 of 2025

(Arising out of Kotwali PS Case No. 286/2025 dated 19.03.2025)

Order No. 22

dated 14.11.2025

Today is fixed for production, appearance and SR.

Accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen are produced from J.C. through V.C. and remanded to further J/C till next date.

Another accused Rajat Kanti Chowdhuri on court bail is present by filing hazira.

SR upon accused Jiban Deb, Sushanta Roy, Ashim Sen and Ashok Dutta are received after duly served.

Neither the accused nor any one appears today on behalf of accused Jiban Deb, Sushanta Roy, Ashim Sen and Ashok Dutta. Let bailable warrant of Rs 2,000/- each be issued against this accused persons.

Accordingly, issue bailable warrant of Rs. 2,000/- against accused Jiban Deb, Sushanta Roy, Ashim Sen and Ashok Dutta at once.

A bail petition is filed on behalf of the custody accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen praying for bail on the ground as stated therein.

Copy served.

Case Diary is produced.

Ld. PP-in-Charge and Ld. Advocate on behalf of the accused persons are present.

Now the bail petition filed on behalf of accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen is taken up for hearing.

Heard both sides.

Ld. Advocate for the accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen pointed out that dried leaves and branches of Ganja plant was found in the inventory as seized articles which does not come under the purview of section 20(b)(ii)(C) of the NDPS Act but it will attract the provision of section 20(a) of The NDPS Act for which there is no bar in section 37 of The NDPS Act for granting bail.

In support of his submission learned Advocate for the accused has referred three decisions of the Hon'ble High Court of Judicature at Bombay in case of Kunal Dattu Kadu Vs. Union of India in Anticipatory bail application No. 2173 of 2022 and in case of Mohammad Jakir Nawab Ali Vs. State of Maharashtra thr. PSO, P.S.

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Sonala, Dist. Buldhana in Criminal Application (BA) No. 602/2024 and In the High Court of Andhra Pradesh at Amaravati in Killo Subbarao and Others Vs. The State of Andhra Pradesh in Criminal Petition NO. 5306/2025.

It is submitted by the Ld. Advocate on behalf of the above accused by filing affidavit that no bail application has ever been filed, rejected or is pending before the Hon'ble Court or before any other superior Court in respect of the above accused.

Ld. P.P.-in-charge for the State also does not raise any dispute in so many words either the submission of the learned Advocate for the accused persons or against the prayer for bail. So, he prays for passing necessary order in this regard.

Perused the materials on record and case diary.

I have also perused the decisions as referred in the factual backdrop of the instant case.

From perusal of the case record and case diary with SFSL report it appears that the instant case was originally initiated by the Kotwali PS against accused persons u/s 20(b)(ii)(C)/25/29 of the NDPS Act as huge quantity of Ganja like substance was recovered and seized which is commercial quantity in nature and on completion of investigation, charge-sheet was submitted u/s 20(b)(ii)(C)/25/29 of the NDPS Act with chemical examination report of State Forensic Science Laboratory, Kolkata against eight accused persons including these accused persons and cognizance was also taken. It also appears that huge quantity of Ganja was seized as per seizure list and charge sheet has already been submitted by the IO u/s 20(b)(ii)(C)/25/29 of the NDPS Act against the accused persons which is commercial quantity in nature and for which no such benefit could have been extended to them in view of section 37 of NDPS Act in this regard. Apart from that SFSL report shows that the seized exhibit articles were identified as Ganja.

It is the settled principle of law as laid down by our Hon'ble Apex Court in catena of decision that at the time of hearing of bail application no mini-trial can be held. Here, the point raised by the Ld. Advocate for the custody accused persons, if are to be considered at this stage the mini-trial will be done inspite of receiving the report/result of State Forensic Science Laboratory that the seized articles are Ganja, especially when the seized article appears to be of commercial quantity. Therefore, the ratio of the decisions as referred are not befitting for taking into consideration at this pre-trial stage in the factual back drop of the instant case.

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Therefore, I find that there is sufficient prima facie material for the offence punishable u/s 20(b)(ii)(C)/25/29 of the NDPS against the above accused person and the bail prayer of the above three custody accused persons may not be allowed.

Considering all aspects and submission as well nature of offence and , I am not inclined to enlarge the accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen on bail. Hence, the prayer for bail in respect of accused Shakti Nath Bhowmik, Sanju Bhowmik and Madan Sen stands rejected.

Copies have already supplied to the above four accused persons including custody accused persons and let a date be fixed for ER of absconding accused persons.

To 11.12.2025 for production and ER.

BC II to comply at once.

Dictated & Corrected by,

Addl. Sessions Judge, 1st Court,
(NDPS) Cooch Behar.

Addl. Sessions Judge, 1st Court,
(NDPS) Cooch Behar.
JO Code No. WB00654