

ST Case No. 11(08)/2025

NDPS Case No. 37 of 2025

(Arising out of Pundibari PS Case No. 23/25 dated 08.01.2025)

Present : Mukul Kumar Kundu
Additional Dist & Sessions Judge,
1st Court, Sadar, Cooch Behar.
JO Code No. WB00654,

Order No. 01

Dated 28.08.2025

Today is fixed for consideration of charge.

Both the accused persons namely Sujan Barman, Amrit Barman and Tapan Barman are produced from J.C. through V.C. and remanded to J.C. till next date.

Remaining accused Nirmal Sharma @ Pradip on court bail is present by filing hazira.

In compliance of earlier order dated 25.07.2025, a report dated 28.08.2025 is received from the I.O. SI Laden Dorjee Bhutia of Pundibari PS regarding seized vehicle. Let it be kept with the record.

Ld. PP in charge and the Ld. Lawyer of the accused are present.

Now the case is taken up for consideration of charge.

Perused the case diary and other materials on record.

On perusal of the case diary and the materials on record I find that there are sufficient materials for the offence under section 20(b)(ii)(C)/29 of the NDPS Act against the accused persons. Accordingly charge under section 20(b)(ii)(C)/29 Act is framed against the above accused persons. The substance of accusation for the aforesaid charge is read over and explained to the accused persons to which they plead not guilty by saying "আমি নির্দোষ" individually and claim to be tried.

Formal charge has been framed separately in detail on a separate sheet and kept with the record.

Let dates be fixed for adducing evidence of CSWs.

ORDER REGARDING RELEASE OF SEIZED VEHICLE

Ld. Advocate on behalf of petitioner Archana Barman submits that the seized vehicle bearing No. WB26T3741 is lying under the open sky at the concerned P.S. and is exposed to dirt and rust. He further submitted that the petitioner being the owner of the seized vehicle is praying for release the vehicle in her favour at any condition on interim basis during pendency of the present case as charge sheet has already been submitted and therefore the vehicle may be returned to the petitioner.

Ld. PP in charge submitted that necessary order may kindly be passed after considering the report of the I.O.

Perused the case record, petition dated 25.07.2025 and report dated 28.08.2025 of the I.O. SI Laden Dorjee Bhutia of Pundibari PS.

On perusal of the police report dated 28.08.2025, it is apparent that the I.O. of the case has raised no objection to return the seized vehicle bearing registration No. WB26T3741 to the petitioner Archana Barman being the owner of the seized vehicle.

Record shows that the alleged vehicle was seized on 08.01.2025 on the allegation of transporting Ganja (contraband substances) without valid documents in the seized vehicle and the petitioner is the registered owner of the seized vehicle. Now the question for consideration of the court is whether the seized vehicle can be returned to the petitioner on interim custody during pendency of the criminal case, inspite of having provision for confiscation of the vehicle u/s 60 (3) of the NDPS Act 1985.

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In this regard it was observed by the Hon'ble Apex Court in "Biswajit Dey V. State of Assam dated 7th January, 2025 in Criminal Appeal No. 87 of 2025 arising out of Special Leave Petition (Crl.) No. 13370 of 2024 that " *the trial Court to release the Vehicle in question in the interim on superdari after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the Vehicle and accused by signing the same. Further, the appellant shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the Vehicle within one week of being so directed and/or pay the value of the Vehicle*".

Now herein in this instant case, on consideration of the report of IO where he dose not object to return the seized vehicle as well as in view of the decision as cited, this court is of the considered view that the there is no immediate chance of conclusion of trail where charge has yet not been framed.

Here if the vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. Consequently if the vehicle is not released during the trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce. On the contrary, if the vehicle in question is released, it would be beneficial to the owner.

Upon hearing of the Ld. Counsel of the parties and in the conspectus facts and circumstances of the case, and the legal provision referred aforesaid, I am of the considered view that this is an appropriate case for release the vehicle on certain terms and conditions when the seized vehicle is lying under the open sky at the concerned P.S. and is being exposed to dirt and rust. Therefore, I am inclined to allow the prayer of the petitioner for interim custody of seized vehicle as sought for subject to fulfillment of certain terms and conditions.

Accordingly, the vehicle bearing registration No. WB26T3741 (motor car) seized in connection with this case be released in the interim superdari subject to the petitioner Archana Barman furnishing furnishing Bond of Rs. 20,00,000/- (rupees twenty lac) out of which Rs 1,00,000/- (rupees one lakh) must be a Bank Guarantee being supported by an affidavit after preparing video and still photography of the vehicle and after obtaining all the documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer and petitioner Archana Barman being the owner of the vehicle signing the same. Further, the petitioner shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the court that she shall produce/ surrender the Vehicle bearing registration No. WB26T3741 within one week of being so directed and/or pay the value of the Vehicle and and ensure its availability for trial and produced the vehicle at the end of the trial for potential confiscation so warranted by the final adjudication.

The petitions dated 25.07.2025 is hereby disposed of accordingly.

Following schedule be fixed for adducing evidence of charge-sheeted witnesses.

To 25.11.2025 for evidence of CSW No. 1

To 26.11.2025 for evidence of CSW No. 2

To 27.11.2025 for evidence of CSW No. 3

To 28.11.2025 for evidence of CSW No. 4

Issue summons accordingly.

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Alamat be produced on the date fixed.

Prosecution to take steps.

Accused be as before.

The O.C. Pundibari PS is hereby directed to make necessary arrangement for appearance of materials witnesses mentioned above i.d. necessary order will be passed.

Let another copy of this order be sent to the I.O. through O.C. Pundibari PS for information and taking necessary action.

Let a copy of this order be sent to the O.C. Pundibari PS for strict compliance.

Dictated & Corrected by,

Sd/-

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

Sd/-

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