

NDPS Case No. 47 of 2023

Present : Mukul Kumar Kundu
Additional Sessions Judge,
1st Court, (NDPS), Cooch Behar.
JO Code No. WB00654

Order No. 19
dated 19.05.2025

Today is fixed for I.O.'s report.

Accused Parmesh Mangar is produced from J.C. through V.C. and remanded to further J.C till 31.05.2025/ 06.06.2025 on account of ensuing Summer vacation started from 26.05.2025 to 31.05.2025.

Remaining accused persons namely Sershan Hoque, Aminur Khan, Saddam Hossain, Subhash Ch. Barman and Ainul Haque are present by filing hazira.

A bail petition is filed on behalf of accused Parmesh Mangar praying for bail on the ground as stated therein along with a petition being supported by an affidavit and the pen-drive with certificate. Let the same be kept with the record.

Copy served.

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

Received charge sheet along with FSL report vide charge sheet No. 116/2025 dated 16.05.2025 U/sec. 21(c)/29 NDPS Act against accused persons 1) Saddam Hossain @ Pappu Rahaman, 2) Sershan Haque, 3) Subhash Ch Barman, 4) Aminur khan, 5) Ainul Haque all are on bail & 6) Parmesh Mangar who is in custody in connection with Mekhliganj P.S Case No. 286/2023 dated 30-08-2023.

Copies of the documents in connection with the case are also submitted by the I.O for supplying the same to the accused persons.

I have perused the case diary along with written complaint, statement of witnesses recorded u/s 161 of Cr.P.C., seizure lists and other materials on the case diary.

After careful perusal of the case diary it appears that there is sufficient prima facie materials for the offence U/Sec. 21(c)/29 NDPS Act against accused persons 1) Saddam Hossain @ Pappu Rahaman, 2) Sershan Haque, 3) Subhash Ch. Barman, 4) Aminur khan, 5) Ainul Haque & 6) Parmesh Mangar .

Accordingly, cognizance for the offence U/sec. 21(c)/29 NDPS Act is taken against accused persons namely 1) Saddam Hossain @ Pappu Rahaman, 2) Sershan Haque, 3) Subhash Ch. Barman, 4) Aminur khan, 5) Ainul Haque & 6) Parmesh Mangar.

Now the bail petition is taken up for hearing.

Heard both sides.

It is submitted by the Ld. Advocate for the above accused person that the accused Parmesh Mangar has been shown in this case as owner of the seized vehicle which has been seized by the police but before institution of this case the said seized vehicle had been soled by the accused Parmesh Mangar and the entire process of sale has been recorded in video mode stored in a pen-drive which pen-drive is produced before this Court today.

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In support of his submission he has filed another petition narrating the fact of videography taken by his sister of the alleged deliver the possession and control of the vehicle for which the accused has no control over the said vehicle. Therefore, he prays for directing investigating agency to investigate the matter and prays for bail.

Ld. PP in charge opposes the bail prayer of the accused considering the nature of the offence as charge-sheet has already been submitted u/s 21(C)/29 of The NDPS Act the present accused person is in custody very recent i.e. on 04.05.2025. He further submits that the submission of the Ld. Lawyer for the above accused regarding videography of transfer of vehicle in question cannot be considered at this stage but that can be produce during the course of trial. So, the prayer of the above accused person may not be allowed and rejected.

Perused the materials on record and submission.

Having heard the submission of both sides and on perusal of the case record I find that this is a case u/s 21(C)/29 of the NDPS Act and charge-sheet has already been submitted. Apart from that no such documents, including RC book as well as delivery note, payment of installments has been submitted from the side of the above accused regarding the transfer or delivery of possession of the seized vehicle in question, so only on the basis of the videography of alleged delivery of vehicle cannot be ascertained that the accused has no possession or control over the seized vehicle. Further more the contents of the bail petition that the seized vehicle has already been sold out by the accused person appears to be contradictory to the prayer that he has only delivered the possession the vehicle on certain conditions which is allegedly videographed by his sister.

We know that in respect of transfer of ownership of any vehicle, it should be done through Motor Vehicle department and unless and until the RC of the vehicle is changed, it cannot be said the ownership of the vehicle in question has been transferred. Therefore, verbal transfer of ownership of the vehicle or verbal delivery of possession any vehicle without scrap of document, only captured in videography, is not permissible in the eye of law and not a cogent ground for consideration of bail. Moreover, charge-sheet has already been submitted after completion of investigation.

It is to be mentioned herein that in the case of Dinubhai, Baggabhai Solanki (supra) and another decision of the Hon'ble Apex Court in the case Sri Bhagwan Samardha V State A.P. reported in (1999)5 SCC 740, mentioned in para VII in the decision passed by the Hon'ble Apex Court in the case of Satishkumar Nyalchand Shah V the State of Gujrat, wherein it was observed and held that there is nothing in section 173(8) CrPC to suggest that the court is obliged to hear the accused before any direction for further investigation is made. Therefore, it is not at all appreciable how the accused against whom the charge-sheet has already been submitted has any locus and/ or any say the application for further investigation of the case and thus there is no substance in the present petition which deserved to be rejected.

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Moreover, prima facie it appears that there are sufficient incriminating materials against the accused person u/s 21(C)/29 of The NDPS Act as huge quantity of narcotic substances have been allegedly recovered from the possession of the accused person which commercial quantity in nature for which no such benefit could have been extended to him in view of section 37 of NDPS Act in this regard. Therefore the bail prayer of the accused may not be allowed.

Considering all aspects and nature of offence, I am not inclined to enlarge accused on bail. Hence prayer for bail in respect of accused Parmesh Mangar stands rejected.

Accordingly, both the petitions are hereby disposed of.

To 31.05.2025/ 06.06.2025 for production of the accused Parmesh Mangar from J.C. through Video Conference, appearance of other accused persons & copies.

Dictated & Corrected by,

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

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(NDPS) Cooch Behar.