

CNR No. WBDJ070000172026

JO Code : WB00935

Special NDPS Case No. 7/2026

Order No.10

Dated 26.05.2026

Record is taken up on the basis of put up petition filed on behalf of the accused persons namely Norden Sherpa @ Riwas and Bimal Rai.

Ld. Special P.P. as well as Ld. Counsel for the accused are found present in court.

One bail petition along with affidavit have been filed by the Ld. counsel for the accused persons praying for bail on the ground stated therein.

Copy served.

Heard both sides at length.

It is submitted on behalf of the accused persons that the chargesheet has already been filed and therefore, custodial interrogation is no longer required. The applicants/accused persons have been in judicial custody since 26.03.2026 and charge sheet has been filed on 25.05.2026 u/s 21 (b)/27/29 of NDPS Act but charge has not been framed and the trial is yet to commence. It is further submitted that the applicants/accused persons have roots in society and are not likely to abscond or tamper with the evidence.

The Ld. Counsel for the applicants/accused persons have relied upon the order of the Hon'ble High Court, Calcutta passed in **Masud Sk Vs. State of WB** wherein the Hon'ble Court has been pleased to emphasize the non-necessity of the accused person for custodial interrogation on filing of chargesheet taking into account of intermediate quantity of seized articles.

The Ld. Special P.P. has raised formal objection against the prayer for bail.

I have heard both sides and perused the material on record.

At the outset, it must be noted that the alleged quantity recovered is of an intermediate nature, and hence the rigors of Section 37 of the NDPS Act do not apply. The twin conditions under Section 37 are attracted only in cases involving commercial quantity.

Further, the investigation is complete, and the chargesheet has already been filed. There is no specific allegation of tampering with evidence or influencing witnesses, nor is any material placed on record to indicate that the applicants/accused persons pose any flight risk. The need for custodial interrogation does not arise post-filing of the chargesheet, a fact repeatedly upheld by Hon'ble courts in plethora of decisions.

The right to personal liberty under Article 21 of the Constitution is a sacrosanct fundamental right. Detention in custody without compelling justification, particularly when investigation is over,

amounts to an unwarranted infraction of this right. The courts are the guardians of personal liberty and are obligated to ensure that incarceration is not resorted to mechanically.

Considering the facts and circumstances of the case, the filing of charge sheet, the quantity of seized contraband (intermediate), absence of prior criminal antecedents, and the lack of necessity for further custodial interrogation and placing reliance on the order as referred herein above by Ld. Counsel for the applicants/accused persons, this Court is of the view that the continued incarceration of the applicants/accused persons is not warranted.

Accordingly, the applicants/accused persons namely **Norden Sherpa @ Riwash and Bimal Rai** are ordered to be released on bail, on the following conditions:

- The applicants/accused persons shall furnish bonds of Rs.5,000/- (Rs. Five thousand) only each with two sureties of 2,500/-(Rs. Two thousand five hundred) only each to the satisfaction of the learned Ld. Chief Judicial Magistrate, Kalimpong.
- The applicants/accused persons shall appear before the court on each and every date without fail.
- The applicants/accused persons shall not tamper with the evidence or influence any material witness.

Todate (01.06.2026) for appearance if on bail and supply of copy.

Let a copy of this order be transmitted to the office of the Ld. C.J.M, Kalimpong for information and further necessary action.

D&C by me

Sd/-

Judge, Special Court (NDPS)

Kalimpong

Sd/-

Judge, Special Court (NDPS)

Kalimpong