

**NDPS Case No. 02 of 2026**  
**CNR No. WBCS01-00-0067-2026**  
**Under Section 22(c) NDPS Act**  
**State Versus Dasharath Barman (A1) & Moklesur Rahaman (A2)**

**Order No. 16**  
**19.02.2026**

- 1) Today is fixed for hearing of the applications filed on behalf of accused A1 & A2, separately, both dated 10.02.2026.
- 2) Learned PP-in-charge is present with CD.
- 3) The record is taken up for hearing. Heard both sides.
- 4) Perused the materials in Case Docket.
- 5) Heard both sides.

**RIVAL SUBMISSIONS**

- 6) Learned Lawyer for the accused/petitioners has raised the following points in support of prayer for bail of his client –
  - a) *Their clients have falsely been impleaded into this case.*
  - b) *There are some procedural irregularities in the process of search and seizure.*
  - c) *Their clients are anchored to a permanent and immutable places of abode, their domicile being fixed, unquestionable, and incapable of inviting any suspicion of evanescence.*
- 7) Accordingly, an order of bail is sought for on any condition, whatsoever.
- 8) Learned Public Prosecutor has made a strident opposition against the prayer for bail on the following grounds –
  - i. A quantity far transcending the commercial threshold—being 199 bottles of cough syrup from accused A1, and 43 bottles of cough syrup from accused A2, both having codeine phosphate—was unearthed from the conscious and culpable possession of the accused/petitioners, leaving little room for exculpatory conjecture.
  - ii. The investigation is going on in full swing
  - iii. The rigour of statutory interdiction, as engrained in Section 37 of the NDPS Act, casted its formidable shadow upon the present prayer, thereby circumscribing the discretion of this Court in no uncertain terms.
- 9) Accordingly, Learned Public Prosecutor has prayed for rejection of prayer for bail.

**REASONS & RESULT**

- 10) In the words of Hon'ble Mr. Justice V. R. Krishna Iyer - *Judges themselves are prisoners of the law and are not free to free a prisoner save through the open sesame of Justice according to law. (Maru Ram & others Versus UOI)*<sup>1</sup>
- 11) It is not merely the procedural fetters enshrined in Section 439 Cr.P.C. (now Section 483 BNSS) that must engross the Court's judicial conscience; equally imperative are the formidable inhibitions entrenched in clause (b) of sub-section (1) of Section 37, which the Court is bound to observe with scrupulous fidelity. The statutory command of Section 37(1) ordains that: (i) the Public Prosecutor be accorded a real and effective opportunity to oppose the supplication for release; and (ii) upon such opposition, the Court must be satisfied that reasonable grounds exist to believe that the accused is not guilty of the imputed offence. Beyond this, the Court must yet be further persuaded that the accused is not likely to transgress the law whilst enlarged on bail.
- 12) The expression "reasonable grounds" has come up for discussion various judgments of Hon'ble Apex Court, a landmark of which was reported in *Collector of Customs, New Delhi Versus Ahmadalieva Nodira*<sup>2</sup>. It is no longer *res integra* that the expression "reasonable grounds" in clause (b) of sub-section (1) of Section 37 of the

<sup>1</sup> AIR 1980 SC 2147

<sup>2</sup> 2004 (3) SCC 549

NDPS Act signifies credible and persuasive grounds sufficient to engender in the Court a belief that the accused is not guilty of the alleged offence. Such a satisfaction must rest upon facts and circumstances that convincingly suggest that the accused would not have committed the act imputed. In tandem with this lies the further statutory requirement that the accused is unlikely to commit any offence whilst on bail. (See- *NCB Versus Mohit Aggarwal*<sup>3</sup>)

- 13) T In the present matter, the quantity of cough syrup bottles allegedly recovered from the conscious possession of each of the accused/petitioners, albeit on different dates, unmistakably traverses beyond the threshold prescribed for “commercial quantity,” thereby attracting the rigours of the stringent statutory framework and placing the case within the most serious category contemplated by law.
- 14) The submissions advanced by the learned defence counsel, howsoever assiduously projected, pertain essentially to disputed questions of fact and evidentiary appreciation, matters which lie within the exclusive province of trial and cannot be adjudicated upon at this preliminary stage without impermissibly pre-empting the course of evidence, particularly at this stage where the investigation is lying still in its blooming stage.
- 15) This Court cannot remain oblivious to the pernicious menace of narcotic trafficking, a scourge which corrodes the moral, economic, and social fabric of society with devastating and often irreversible consequences. Such offences, by their very nature, demand heightened judicial vigilance and a cautious approach before the extraordinary indulgence of bail is extended to those accused of participation therein.
- 16) Significantly, nothing has been brought on record which may even remotely persuade this Court that there exist reasonable grounds for believing that the accused/petitioners are not guilty of the alleged offence, or that they are unlikely to commit any offence while on bail. In absence of such foundational satisfaction, the statutory embargo operating under Section 37 of the NDPS Act stands firmly attracted, creating a formidable barrier against the grant of bail, which this Court neither finds justification nor jurisdiction to dilute.
- 17) The prayer for bail, therefore, stands rejected with a firm judicial mandate.
- 18) For the reasons, as above, the prayer for bail stands refused. CD be returned.
- 19) To date (**24.02.2026**) for production and IO's report in final form.

Dictated and corrected by me

Judge, Spl. Court ( NDPS Act),  
Raiganj, Uttar Dinajpur.

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Raiganj, Uttar Dinajpur.

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<sup>3</sup> (2022) 18 SCC 374)

