

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. 21
09.04.2026

- 1) Today is fixed for hearing of the applications filed on behalf of accused A1 & A2, separately, both dated 08.04.2026.
- 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 Counsel appearing for the accused/petitioners, speaking in unison, have advanced the following submissions in support of the prayer for bail on behalf of their respective clients-
 - a) That the accused have been falsely and maliciously roped into the present prosecution.
 - b) That the search and seizure are vitiated by certain procedural aberrations, rendering the prosecution case suspect.
 - c) That the accused are firmly rooted in society, being possessed of permanent and well-established places of abode, their presence neither fleeting nor susceptible to evasion.
- 7) On the aforesaid premises, an indulgence of bail is earnestly solicited, even upon the imposition of stringent conditions as this Court may deem fit and proper.
- 8) Per contra, the Learned Public Prosecutor has mounted a vehement opposition to the prayer for bail, canvassing the following grounds—
 - A. That a quantity far in excess of the commercial threshold—namely, 199 bottles of codeine-based cough syrup from accused A1 and 43 bottles from accused A2—has been recovered from their conscious possession, thereby eclipsing any presumption of innocence at this stage.
 - B. That the investigation is presently in active progress and has not yet reached its logical culmination and accused A1 has a habitual offender under NDPS Laws as other cases under NDPS Act are also pending against him.
 - C. That the statutory embargo engrafted under Section 37 of the NDPS Act stands as a formidable impediment, severely constricting the discretionary jurisdiction of this Court in the matter of grant of bail.
- 9) On such grounds, the Learned Public Prosecutor has fervently urged for the rejection of the present prayer for bail.

REASONS & RESULT

- 10) The quantity of cough syrup allegedly recovered from the conscious possession of each accused/petitioner, though on different dates, clearly exceeds the notified “commercial quantity,” thereby attracting the stringent rigours of law.
- 11) The defence submissions, resting upon disputed facts and evidentiary issues, are matters for trial and cannot be examined at this incipient stage, particularly when the investigation is still underway.
- 12) The grave menace of narcotic trafficking necessitates a cautious and guarded approach, militating against the liberal grant of bail.
- 13) It is not the procedural latitude under Section 439 Cr.P.C. (now Section 483 BNSS) alone that governs the field; of equal, if not greater, moment are the stringent interdictions embedded in Section 37(1)(b), to which the Court must yield unwavering adherence. The provision mandates that the Public Prosecutor be afforded a meaningful opportunity of opposition, and, upon such contest, the Court must be satisfied—on reasonable grounds—of the accused’s prima facie innocence, coupled with an assurance against any proclivity to reoffend while on bail.

- 14) The expression “reasonable grounds” has engaged authoritative exposition by the Hon’ble Apex Court, notably in *Collector of Customs, New Delhi Versus Ahmadaliev Nodira*¹. It is now well settled that the said expression, as occurring in Section 37(1) (b) of the NDPS Act, connotes substantial, credible, and persuasive grounds capable of inducing a bona fide belief in the Court that the accused is not guilty of the offence alleged. Such satisfaction must be founded upon cogent facts and attendant circumstances pointing convincingly towards innocence. In conjunction therewith, the Court must further be assured that the accused is not likely to indulge in any offence while on bail (*NCB Versus Mohit Aggarwal*²).
- 15) In the absence of any material to satisfy the twin conditions mandated under Section 37 of the NDPS Act, the statutory bar operates with full force, leaving no scope for grant of bail.
- 16) The prayer for bail, therefore, stands rejected.
- 17) For the reasons, as above, the prayer for bail stands refused.
- 18) CD be returned.
- 19) To date (22.04.2026) for production and IO’s report in final form.

Dictated and corrected by me

Judge, Spl. Court (NDPS Act)
1st Court, Raiganj, Uttar Dinajpur.

Judge, Spl. Court (NDPS Act)
1st Court, Raiganj, Uttar Dinajpur.

¹ 2004 (3) SCC 549

² (2022) 18 SCC 374)