

**NDPS Case No. 05 of 2026**  
**CNR No. WBUD01-00-0196-2026**  
**Under Section 21(c) NDPS Act**  
*State Versus Saim Khan @ Sayem Khan*

**Order No. 11**  
**20.04.2026**

1. Today is fixed for production, hearing of the petition dtd. 24.02.2026 and supply of copy.
2. Accused **Saim Khan @ Sayem Khan** is produced through VC and is being represented by his Learned Lawyers.
3. The application for bail filed on 24.02.2026 on behalf of accused Saim Khan @ Sayem Khan is taken up for hearing.
4. Copy served.
5. Learned Public Prosecutor is also present.
6. Both sides have been heard at length with due circumspection.

**SUBMISSIONES ADVERSARIAE**

7. The Learned Counsel for the accused/petitioner has, with earnest persuasion, raised the following points in support of the prayer for bail—
  - a) *His client is in custody since 18<sup>th</sup> January, 2026.*
  - b) *His client has been pledged into this case with baseless allegations.*
  - c) *His client has permanent place of abode.*
8. Per contra, Learned PP-in-charge has raised a sibilant opposition and raised the following points –
  - i. More than commercial quantity of contraband, being 408 grams of Heroin ( Brown Sugar), is lying seized in this case.
  - ii. If the accused/petitioner gets bail it would throttle the process of trial which is going to be commenced within a short span.
  - iii. There is a statutory restriction under Section 37 NDPS Act.
9. Accordingly, Learned PP-in-charge prayed for rejection of the prayer for bail.

**DISCEPTATIO ET DECISIO**

10. This Court considers the following points as of decisive importance –
  - A. "To strike the balance between the needs of law enforcement on the one hand and the protection of the citizen from oppression and injustice at the hands of the law enforcement machinery on the other is a perennial problem of statecraft"- observed Justice V.R. Krishna lyer quoting Lewis Mayers in his celebrated judgment in the case of Nandini Sathpathy Versus P.L. Dani<sup>1</sup>
  - B. This Court, in the present case, is called upon to embark upon a path similar, for the cries of the accused person for protection of her sanctimonious right of liberty is pitted against the demand of the investigating agency to curb the same, ostensibly for trial of what according to it, is a heinous crime as alleged in this case under NDPS Act.
  - C. Not only are the limitations imposed under Section 439 Cr.P.C. (Section 483 BNSS) to be kept in mind, the restrictions placed under clause (b) of sub-section (1) of Section 37 are also to be factored in. The conditions imposed in sub- section (1) of Section 37 is that (i) the Public Prosecutor ought to be given an opportunity to oppose the application moved by an accused person for release and (ii) if such an application is opposed, then the Court must be satisfied that there are reasonable grounds for believing that the person accused is not guilty of such an offence. Additionally, the Court must be satisfied that the accused person is unlikely to commit any offence while on bail.

---

<sup>1</sup> AIR 1978 SC 1025

- D. 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” used in clause (b) of Sub-Section (1) of Section 37 NDPS Act would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence.
- E. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dovetailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail. (See- *NCB Versus Mohit Aggarwal*<sup>3</sup>)
- F. Coming to our case at hand, 408 grams of Heroin ( Brown Sugar) was recovered from the direct possession of the accused/petitioner.
- G. Nothing is placed on board from the end of the accused/petitioner to show that those brown sugar was intended to be used for **therapeutic purpose**.
- H. *In the shadow of the NDPS Act, 1985, where the venom of illicit narcotics corrodes the very sinews of society, the liberty of the accused must yield to the larger mandate of collective welfare, rendering the prayer for bail unworthy of indulgence.*
- I. *Nothing is placed on record which can lift the boom-barrier of statutory restriction as envisaged in Section 37 NDPS Act.*
11. For the reasons as above, the prayer for bail is found sans merit, deserves rejection which this Court directs.
12. To **04.05.2026** for production and supply of copy.

Dictd. & Cortd.

Judge, Spl. Court ( NDPS Act),  
1<sup>st</sup> Court, Raiganj, U/Dinajpur.

Judge, Spl. Court ( NDPS Act)  
1<sup>st</sup> Court, Raiganj, U/Dinajpur.

---

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

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