

**NDPS Case No. 17 of 2026**  
**CNR NO WBUD01-000718-2026**  
**J.O CODE WB00993**

Order No. 07  
01.04.2026

Regular P.O is on Spl. SIR duty.

Today is fixed for production and I.O's report and also for production of CD.

All the accused persons namely, **Nasir Miah, Ibrahim and Aminul Islam** are produced from JC through VC Mode and remanded to JC.

No bail petition is filed on behalf of the accused **Nasir Miah and Ibrahim.**

One bail petition is filed on behalf of the accused Aminul Islam. Copy of the bail petition is served upon the prosecution.

Ld. P.P in charge is present and filed a petition u/s 37 of NDPS Act praying for rejection of bail.

I.O is also present with CD along with a prayer for rejection of bail of the accused.

The bail petition is moved.

Heard. Perused the case record and CD.

Ld. Advocate for the accused Aminul Islam submitted that this accused is in custody since 15.03.2026. He was taken into PC for five days but no fruitful result was achieved during such PC period. Ld. Advocate further stated that the accused was arrested allegedly on the basis of the statements made by the other accused persons while in P.C. No recovery has been shown from the custody of this accused. The charge brought against this accused is only with respect to the offence punishable u/s 29 of NDPS Act.

Ld. Advocate emphasized that in the Arrest Memo, the ground of arrest has not been specified in accordance with the latest direction of the Hon'ble Apex Court. Ld. Advocate further argued that this accused was taken in P.C for five days and during the P.C period, no fruitful result could be achieved. Till this date, the investigating agency has failed to collect any prima facie evidence to show the involvement of this accused in the alleged incident. It is again submitted by Ld. Advocate that the FIR was lodged on 09.03.2026. The police officer lodging FIR had mentioned that the seizure was made from the custody of the two accused persons namely, **Nasir Miah and Ibrahim.** It is the prosecution story that these two accused persons were found travelling in a Mahindra Bolero Vehicle bearing Registration No. **WB 60K/5325.** In the FIR it is not stated that at which place the seized articles were kept inside the said vehicle or whether the seized articles were found in the physical possession of the accused persons. In the seizure list it is only mentioned that the seizure was made from the common possession of the two accused persons.

Ld. Advocate then drew the attention of this Court to the forwarding report of those two accused persons namely Nasir Miah and Ibrahim. It is submitted that in the forwarding report, the vehicle number has got changed. Here it is mentioned that the number of the said vehicle is **WB60K/5825.** Ld. Advocate articulated that if the FIR is believed, then the vehicle bearing registration No. **WB 60K/5825** is a Mahindra Bolero Pick Up Van. But the registration shows that this vehicle is a Omni Bus. Therefore, the vehicle does not match with the description as mentioned in the FIR. If the forwarding report is to be believed then it would appear that the vehicle bearing registration No. **WB60K/5325** is a motor cycle / scooter. Therefore, from the documents ( FIR and accused forwarding report) it would appear that the very inception of this case is flawed. Neither of the two registered numbers are in respect

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of any "Mahindra Pick Up Van". Ld. Advocate further argued that for such reason, the initial arrest of the two accused persons itself is doubted.

It is further contended that this accused Aminul Islam was apprehended on the basis of confessional statement made by the other two accused persons while they were in PC. The investigation has proceeded to a good extent but till date, no such material evidence could be collected to show that this accused has direct nexus with the other two accused persons who were shown arrested from the said vehicle.

Ld. Advocate further argued that this accused Aminul Islam is a permanent resident within the jurisdiction of this Court and that there is no likelihood of his absconding if released on bail. Ld. Advocate further argued that statutory bar u/s 37 of NDPS Act does not apply to this accused as no recovery is shown from his possession. In this respect Ld. Advocate referred to the decision of Hon'ble Bombay High Court in Criminal Bail Application no. 3624 of 2021 ( Aryan Shah Rukh Khan Vs Union of India & ANR). It is argued that the Hon'ble Court in this case considered the provision of section 29 of the NDPS Act. *The Hon'ble Court held that the accused was not found in possession of any objectionable substance. For inferring the act of hatching conspiracy on the part of the applicants and other co accused, there has to be positive evidence about an agreement to do an unlawful act and such agreement must precede with meeting of minds.*

Ld. Advocate argued that this case is also of a similar nature where the investigating agency has till date failed to collect any evidence to relate this accused with the other two accused persons. Finally it is argued that as there is no evidence at all against this accused till this date, he must be given the liberty of bail.

Accordingly, Ld. Advocate prayed for allowing bail to this accused on any condition.

On the other hand, the Ld. Public Prosecutor-in-Charge strongly opposes the bail application. It is submitted on behalf of the prosecution that this case is at an initial stage of investigation. Huge quantity of narcotic substances was recovered from the possession of the other co-accused persons. The investigation with respect of the involvement of this accused is going on and at this stage, the statutory bar u/s 37 of NDPS Act is well applicable in respect of this accused also. Ld. PP accordingly prayed for rejection of bail application of this accused.

I have heard both sides in details. I have considered all the available documents meticulously. Upon considering the present facts and circumstances, I concede to the view of the prosecution that the investigation is going on and evidence is forthcoming. At this stage, there is no prima facie evidence/material to come to any definite finding that this accused is not at all involved with the alleged incident. There is also no prima facie material to hold that if the accused is granted bail, he shall not commit any other offence. Accordingly, I am of the view that the statutory bar u/s 37 of NDPS Act is well applicable in respect of this accused, at least at this stage. There may be certain discrepancies which can be found in the FIR, forwarding report and other relevant documents. It is also an admitted position that till this date the investigating agency has not succeeded in collecting evidence to relate this accused with the other accused persons or to relate this accused with the offence alleged. This however does not create any presumption in the mind of this

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court that the investigating agency shall never be able to collect any cogent evidence against this accused for the purpose of relating him with the incident alleged.

I also take into consideration the fact that as this is a special statute where culpable mental state has to be presumed, unless it is rebutted by proper evidence. Therefore, any circumstances that may apparently seem to be favouring the accused, cannot be considered as a yardstick to presume absolute innocence of the accused.

Considering the facts and circumstances stated above, I am of the view that the relevant facts and circumstances of this case does not allow this Court to overwrite the legislative intent in awarding this statute a special status where the accused is presumed to have committed the offence, unless rebutted with proper evidence. Hence, the prayer for bail of the accused **Aminul Islam** stands rejected.

Accused be sent to J/C.

To **17.04.2026** for production of three accused persons and IO's report.

Return CD and call for CD on the next date.

I.O is directed to produce the CD on the date fixed ie on **17.04.2026**.

D/C by me

Judge, Spl. Court, I/C  
Raiganj, Uttar Dinajpur.

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Raiganj, Uttar Dinajpur.