

NDPS Case No. 17 of 2026
CNR No. WBUD01-00-0718-2026
Under Section 21(c)/29 NDPS Act

State Versus 1. Nasir Miah (A1) 2. Ibrahim (A2) and 3. Aminul Islam (A3)

Order No. 10
20.04.2026

1. Today is fixed for production and IO's report.
2. Accused persons, who are in J/C, are produced virtually and are being represented by their respective Learned Lawyers.
3. Learned Public Prosecutor is also present.
4. No application for bail is filed on behalf of accused A1 & A2.
5. One application for bail is filed on behalf of accused A3.
6. Copy served.
7. The prayer for bail is taken up for hearing.
8. Both sides have been heard at length with due circumspection.

SUBMISSIONES ADVERSARIAE

9. The Learned Counsel for the accused/petitioner (accused A3) has, with earnest persuasion, raised the following points in support of the prayer for bail—
 - a) *His client is in custody since 15th March, 2026,*
 - b) *His client has been pledged into this case with baseless allegations, particularly on basis of the statements of accused A1 & A2 allegedly recorded under Section 67 NDPS Act.*
 - c) *No seizure was effected from the possession of his client, even after 5 days' Police Custody.*
10. Per contra, Learned PP-in-charge has raised a sibilant opposition and raised the following points –
 - i. More than commercial quantity of contraband, being more than **2020 grams of Heroin**, is lying seized in this case.
 - ii. If the accused/petitioner gets bail it would throttle the process of investigation which is still going on in full swing.
 - iii. There is a statutory restriction under Section 37 NDPS Act.

DISCEPTATIO ET DECISIO

11. This Court considers the following points as of decisive importance –
 - A. *A similar prayer for bail, made on behalf of the accused/petitioner, was rejected on 20.03.2026 and 01.04.2026.*
 - B. *True that successive bail application is well prevalent in Bail Jurisprudence, but there must have some new ground/s for asking such a relief.*
 - C. *In our case except the period of immurement no fresh ground is assigned.*
 - D. *Smell of existence of a syndicate in illicit trafficking of heroin is emanating from the materials collected with prima-facie involvement of the accused/petitioner.*
 - E. *The position, on closer scrutiny, is far less pliant than it may outwardly seem. In Tofan Singh v. State of Tamil Nadu¹, the Constitution Bench has unequivocally stripped a statement under Section 67 of the NDPS Act of its confessional efficacy, such statement standing interdicted by Sections 25 and 26 of the Evidence Act, the officers under the NDPS regime being held to partake the character of "police officers" for that purpose.*
 - F. *Yet, in the distinct province of bail, the Supreme Court, in Union of India v. Shiv Shanker Kesari² and Narcotics Control Bureau v. Mohit Aggarwal³, has delineated a measured departure: the Court, not embarking upon a forensic adjudication, is only to arrive at a*

¹ (2021) 4 SCC 1

² (2007) 7 SCC 798

³ (2022) 18 SCC 374

tentative satisfaction as to the existence of “reasonable grounds” within the meaning of Section 37 NDPS Act.

- G. Thus, while such a statement is divested of substantive evidentiary worth for the purpose of conviction, it may, in the limited and guarded inquiry at the stage of bail, be glanced at in conjunction with surrounding circumstances, to discern whether the statutory embargo stands attracted. Even so, such recourse must remain circumspect and merely corroborative, for it would be juridically impermissible to anchor a denial of liberty upon a statement which the law itself has rendered devoid of evidentiary sanctity at trial.*
- H. However, in the case at hand, there are plenteous CDRs and SDRs showing the prima-facie involvement of the accused/petitioner in such an organized crime.*
- I. Therefore, there is substantive evidence against the accused/petitioner dehors the statement under Section 67 NDPS Act.*
- J. Investigation is still in progress.*
- K. Nothing is placed on record which can lift the boom-barrier of statutory restriction as envisaged in Section 37 NDPS Act.*

12. For the reasons as above, the prayer for bail is found sans merit, deserves rejection which this Court directs.

13. To **04.05.2026** for production and IO's report. CD be returned.

Dictd. & Cortd.

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

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