

NDPS Case No. 22 of 2026
CNR No. WBUD01-00-1048-2026
Under Section 21(c)/29 NDPS Act
State Versus Monsur Alam (A1) and Rejaul Islam

Order No. 05
11.05.2026

1. Today is fixed for production and hearing of the application for bail, filed on behalf of accused Rejaul Islam, dated 02.05.2026 and report of the IO in final form.
2. Both the accused are produced through VC.
3. Learned Lawyer for the accused Rejaul Islam is present, while Learned Lawyer from LADC represents accused Mansur Alam.
4. Another application for bail is also filed on behalf of Rejaul Islam.
5. Learned Public Prosecutor is also present along with CD.
6. The prayer for bail dated 02.05.2026 and a similar application, filed today, are taken up for hearing.
7. Both sides have been heard at length with due circumspection.

RIVAL SUBMISSIONS

8. The Learned Counsel appearing for the accused/petitioner has, with considerable earnestness and persuasive emphasis, advanced the following submissions in support of the prayer for bail—
 - a) That the accused/petitioner has remained in judicial custody since 13th April, 2026.
 - b) That the accused/petitioner has been roped into the present case on wholly unfounded and baseless allegations.
 - c) That the accused/petitioner is the only bread earning member of his family.
9. Per contra, Learned P.P.-in-Charge has entered a vehement and sibilant opposition to the prayer for bail, advancing the following submissions—
 - i. That contraband far exceeding the notified commercial quantity, namely 101 bottles of Phensedyl cough syrup containing Codeine Phosphate, has been seized in the present case.
 - ii. There is CDRs in between the principal accused and the present accused/petitioner just before the seizure which shows the involvement of the present accused/petitioner with the crime alleged.
 - iii. That the statutory embargo engrafted under Section 37 of the NDPS Act operates with full force, substantially restricting the discretion of this Court in the matter of grant of bail.

DISCUSSION AND DECISION

10. This Court considers the following points as of decisive importance –
 - A. Humanitarian grounds in bail-jurisprudence is not so much prevalent, particularly in a case of present description.
 - B. 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)¹
 - C. Coming to the facts of the present case, it appears from the materials collected during investigation that immediately preceding the alleged recovery of contraband from accused A1 on 12.04.2026, there were multiple telephonic communications exchanged between accused A1 and the present accused/petitioners, some of which continued for considerable

¹ AIR 1980 SC 2147

duration, including one extending over 10 (ten) minutes (page 67 of CD).

- D. Such circumstances, at least prima facie, substantially erode and belie the plea of “junk calls” as ingeniously projected by the Learned Counsel for the accused/petitioners.
 - E. The position, on closer scrutiny, is far less pliant than it may outwardly seem. In Tofan Singh v. State of Tamil Nadu², 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 Kesari³ and Narcotics Control Bureau v. Mohit Aggarwal⁴, has delineated a measured departure: the Court, not embarking upon a forensic adjudication, is only to arrive at a tentative satisfaction as to the existence of “reasonable grounds” within the meaning of Section 37 NDPS Act.
 - G. Thus, although a statement under Section 67 of the NDPS Act stands stripped of substantive evidentiary value for the purpose of conviction, it may nevertheless be cursorily looked into at the stage of bail, in conjunction with attendant circumstances, solely to ascertain whether the statutory embargo under Section 37 is attracted. Even then, such consideration must remain guarded and merely corroborative, for denial of liberty cannot rest exclusively upon a statement which the law itself has rendered inadmissible as substantive evidence at trial.
 - H. In the present case, however, abundant CDRs and SDRs have surfaced during investigation, prima facie disclosing the involvement of the accused/petitioner in an organised network of illicit activity.
 - I. Consequently, there exists substantive incriminating material against the accused/petitioner dehors the statement recorded under Section 67 of the NDPS Act.
 - J. Moreover, the investigation is still in progress and remains at a nascent stage.
 - K. Nothing has been brought on record capable of surmounting the statutory embargo envisaged under Section 37 of the NDPS Act.
11. For the reasons as above, the prayer for bail is refused.
12. To **22.05.2026** for production and IO’s report.

Dictated & Corrected by me,

Spl. Judge (NDPS)
Raiganj, U/Dinajpur.

Spl. Judge (NDPS)
Raiganj, U/Dinajpur.

² (2021) 4 SCC 1

³ (2007) 7 SCC 798

⁴ (2022) 18 SCC 374