

**NDPS Case No. 22 of 2025**  
**CNR No. WBUD01-001518-2025**  
**Under Section 21(c)/25/29 NDPS Act**  
*State Versus Md. Enamul Haque*

**Order No. 31**  
**21.04.2026**

1. The record is put up today by petition filed on behalf of accused Md. Enamul Haque.
2. One application for bail is also filed on behalf of accused/petitioner.
3. Copy served.
4. Learned Lawyer for the accuse/petitioner is present.
5. Learned Public Prosecutor is also present.
6. The prayer for bail is taken up for hearing.
7. Both sides have been heard at length with due circumspection.

**SUBMISSIONES ADVERSARIAE**

8. 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 01.05.2025*
  - b) *His client has been pledged into this case with baseless allegations.*
  - c) *Investigation is over.*
9. 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 300.12 grams brown sugar is recovered from the possession of the accused/petitioner.
  - ii. If the accused/petitioner gets bail it would throttle the process of trial.
  - iii. There is a statutory restriction under Section 37 NDPS Act

**DISCEPTATIO ET DECISIO**

10. This Court considers the following points as of decisive importance –
  - A. 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.
  - B. 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>1</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.
  - C. 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

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<sup>1</sup> 2004 (3) SCC 549

consideration that the accused person is unlikely to commit any offence while on bail. (See- *NCB Versus Mohit Aggarwal*<sup>2</sup>)

- D. Coming to our case at hand, more than **300 grams of heroin** was recovered from the direct/conscious possession of the accused/petitioner from his house.
  - E. There are plenteous materials collected during investigation such as screen shots of phone-pay of the accused/petitioner showing his direct involvement into the crime alleged.
  - F. 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.
  - G. 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.

**Todate (08.05.2026) for production, report of ER of WA and production warrant of accused Zaharul Alam.**

Dictated & Corrected by

1<sup>st</sup> ADJ (NDPS) Court  
Raiganj, U/D

1<sup>st</sup> ADJ (Special Court (NDPS Act))  
Raiganj, Uttar Dinajpur

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<sup>2</sup> (2022) 18 SCC 374)