

**In the Circuit Bench At Jalpaiguri
Calcutta High Court**

CRM (NDPS) 376 of 2026

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Sahebganj Police Station** Case No. **164 of 2025** dated **26.03.2025** under Sections **21(c)/22(c)/29** of the NDPS Act.

- A n d -

In the matter of : Joy Basu Roy @ Palan Basu Roy & Anr.

.... Petitioners.

Mr. Sourav Ganguly,
Ms. Rishita Chakraborty,

... For the Petitioners.

Mr. Avrajoyti Das,
Mr. D. Rai,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Read order dated August 17, 2026.
2. Today learned State Advocate files a report confirming that S.I. Manik Barman of Sahebganj Police Station who videographed the process of search and seizure using his mobile phone has already been examined and cross-examined before the learned Trial Court.
3. Learned Advocate for the petitioners files a copy of the deposition of the aforesaid S.I. Manik Barman who was examined as PW 7. From the deposition, I find that neither the mobile phone nor any chip of the mobile phone has been exhibited as evidence. There is a mere statement of PW 7 that “the entire process of search and seizure was videographed in my mobile phone”. This, in my opinion, is insufficient to prove the search and seizure process.
4. Further in answer to question no. 19 onwards in cross-examination, the PW 7 stated as follows:-

“19. The independent witnesses of seizure are not the independent Memo of Arrest in connection with this case.

20. It was not mentioned that the grounds of arrest was read over and explained to the accused persons in Bengali language.

21. It is fact that the signatures of the accused persons in the notice u/s 47 BNSS are also in carbon process.

22. The contents u/s 47 BNSS was not explained to the accused persons in Bengali language.

23. The specific grounds of arrest was not mentioned either in the memo of arrest or in the notice u/s 47 BNSS.

24. There is no document to show that the near relations of the accused persons were not intimated about the arrest of the said accused persons.

25. It was not mentioned in the complaint that the weighing scale was brought by the O.C. from the Police Station.

26. I did not take any permission from the O.C. prior to sealing of the seized article as per provision of section 55 of The NDPS Act.

27. I did not comply with the provision of section 57 of The NDPS Act to my superior officer who had authorized me to conduct the search and seizure.”

5. In view of the aforesaid, it reasonably appears that the prosecution will find it impossible to prove the process of search and seizure. The failures and shortcoming on the part of the prosecution strike at the root of the case against the petitioners. I am of the view that the petitioners have been able to overcome the restriction in Section 37 of the NDPS Act and hence, I allow this application.

6. Accordingly, we direct that the petitioners, namely, **Joy Basu Roy @ Palan Basu Roy and Ajijar Mia**, shall be released on bail upon furnishing a bond of Rs. 25,000/- (Rs. 12,500/- each),

with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Session's Judge, 1st Court (NDPS), Cooch Behar subject to condition that they shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioners while on bail shall not leave the jurisdiction of the district Cooch Behar except for the purpose of attending court proceeding and shall meet the O.C./I.C. of Sahebganj police station once in a fortnight until further orders.

7. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.

8. The application for bail is, accordingly, allowed.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)