

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CRM(NDPS)/4/2026

In Re: An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with PS Kalighat in FIR No. 0017 of 2026 dated April 02,2026 under Section 20(a)(i) of NDPS Act

Mr. Augustine Ballava

Vs

The State

Mr. Manas Ajai Sonkar
Mr. Sumit Kumar Sakthi ... for the petitioner

Mr. Sumit Kumar Karmakar ... for the State

April 27, 2026
[SR]
Item No.2

1. The petitioner is a 52-year-old cultivator who was arrested on the charge that he was cultivating Cannabis (Ganja) plants in his backyard. That apart, sealed packets of branches of such plants were found from his bathroom.

2. Learned counsel for the petitioner submits that the rigours of Section 37 of NDPS Act are not applicable, since a charge under Section 20(a) is not covered by the said provision.

3. In support of his contention, learned counsel cites *Narayan Das vs. State of West Bengal* reported at 2025 SSC OnLine CAL 5223 as well as *Beni Madhav vs. State of Himachal Pradesh* reported at 2020 SSC OnLine HP 3762.

4. It is further submitted that although the narrative in the FIR does not support such allegation, under serial No.5 of the grounds of arrest, it was mentioned that in view of the large volume of public funds misappropriated, the matter involves a

grave breach of trust, necessitating firm action to uphold financial integrity and public confidence.

5. On the query of Court as to the apprehension that, if let out on bail, the petitioner may engage in distribution of Cannabis, as sealed packets of branches of Cannabis plants were found in his bathroom, learned counsel of the petitioner submits that he is agreeable to stringent conditions of bail and, if necessary, he will not enter into the jurisdiction of PS Kalighat, where his house and the area where the cannabis plant was found are situated, and shall reside within the territorial jurisdiction of PS Rangat with his brother.

6. Learned Public Prosecutor opposes the prayer for bail and submits that if let loose, the petitioner has every chance of further distributing branches of the offending plant. Keeping in view the serious nature of the crime, as it also affects and ruins the future of the younger generation, it is submitted that the prayer for bail should be refused.

7. Upon a scrutiny of the narrative in the FIR, it is seen that the allegation herein was restricted to some Ganja (Cannabis) plants having been found within the residential premises of the petitioner within PS Kalighat and that some sealed packets of branches of the plant were also recovered from his bathroom. Thus, ground no.5 of the grounds of arrest, relating to public funds being misappropriated, was a superimposition not corroborated by the narrative in the FIR itself. Thus, ground no.5 cannot be a relevant consideration for adjudicating on the prayer for bail.

8. Even otherwise, in consonance with the judgments cited by learned counsel for the petitioner, this Court finds Section 37(1)(b) of the NDPS Act, which imposes reverse burden of proof on the accused and strict rigours relating to grant of bail, does not apply to offences under Section 20 at all. Although “other offences involving commercial quantity” than the Sections mentioned therein is also enumerated in Section 37(1)(b), there is no commercial quantity enumerated in this statute with regard to recovery of Cannabis plants, which is the primary allegation against the petitioner, and/or in respect of the recovery of branches thereof.

9. Thus, the rigour of Section 37(1)(b) is not attracted to the present case at all.

10. On an independent footing apart from Section 37, the Court finds that as lately as on April, 2026, the Trial Court had rejected the prayer for the bail of the petitioner. However, it is also found that the submissions now made by the petitioner do not find place in the said order, indicating there was no adjudication on the said aspects of the matter.

11. Since the petitioner is agreeable not to enter the territorial jurisdiction of PS Kalighat, where he resides and the offending articles were seized, the possibility of his distributing further branches of the offending plant can be ruled out if an appropriate condition for the grant of bail is imposed to that effect.

12. In any event, as the petitioner otherwise does not come under the rigour of Section 37, the Court is of the opinion that

bail ought to be granted to the petitioner, with the rider as indicated above.

13. Accordingly, CRM(NDPS)/4/2026 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local, subject to the satisfaction to the learned Chief Judicial Magistrate, Mayabunder. Moreover, the petitioner shall not enter into the territorial jurisdiction of PS Kalighat during the period of investigation as well as during the period of trial, if the investigation culminates into a charge sheet.

14. Further, during the aforementioned period, the petitioner shall report to PS Rangat once every week and, as and when trial commences, shall attend the trial on every date and shall not leave the territorial jurisdiction of PS Rangat except for meeting the Investigating Officer as and when so required. Further, the petitioner shall not in any manner make any attempt to induce and approach the witnesses and/or tamper with the evidence.

(Sabyasachi Bhattacharyya, J.)