

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

**CRM (NDPS) 169 of 2025
Ajijul Sk. and Anr. Vs. State of West Bengal**

For the petitioners : Mr. Soumyojit Das Mahapatra
Mr. Md. Golam Nure Imrohi

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Ranadeb Sengupta
Mr. Rahul Ganguly

**With
CRM (NDPS) 230 of 2025
Ritu Khan And Anr Vs. State of West Bengal**

For the Petitioners : Mr. Soumyojit Das Mahapatra
Mr. Topodip Gupta

For the State : Mr. Kishore Dutta, Ld. AG

**With
CRM (NDPS) 235 of 2025
Basanti Senapati Vs. State of West Bengal**

For the Petitioner : Mr. Souvik Mitter
Mr. Angshuman Chakraborty
Mr. S.S. Saha

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Rudradipta Nandy
Ms. Debjani Sahu

With
CRM (NDPS) 242 of 2025
Manjit Mandal Vs. State of West Bengal

For the Petitioner : Ms. Salma Sultana Shah
For the State : Mr. Kishore Dutta, Ld. AG

With
CRM (NDPS) 290 of 2025
Rashid Molla @ Bhai Vs. State of West Bengal

For the Petitioner : Mr. Soumyojit Das Mahapatra
Mr. Soumya Basu Roy Chowdhury
For the State : Mr. Kishore Dutta, Ld. AG
Mr. Avishek Sinha
Mr. Akash Ganguly

With
CRM (NDPS) 295 of 2025
Ajim Sk. Vs. State of West Bengal

For the Petitioner : Mr. Soumyojit Das Mahapatra
Mr. Topodip Gupta
For the State : Mr. Kishore Dutta, Ld. AG
Mr. Saryati Dutta
Ms. Mamata Jana

With
CRM (NDPS) 312 of 2025
Md. Nizam Uddin @ Guddu Vs. Narcotic Control Bureau

For the State : Mr. Ayan Bhattacharjee, Sr. Adv.
Mr. Md. Zishan Uddin
Mr. Abhishek Purohit
Mr. Prithiraj Das
For the NCB : Mr. Dhiraj Kumar Tribedi, Sr. Adv. (DASG)
Mr. Kallol Kumar Basu
Mr. Debapriya Samanta

With
CRM (NDPS) 337 of 2025
Sabaktulla Momin and Anr. Vs. State of West Bengal

For the Petitioners : Mr. Avik Gupta
Mr. Purbayan Chakraborty
Mr. Akash Ghosh

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Avishek Sinha
Ms. Rajnandini Das

With
CRM (NDPS) 345 of 2025
Mahesh Prasad Jaiswal Vs. State of West Bengal

For the Petitioner : Md. Wasim Akram
Ms. Sabrina Parveen

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Anasuya Sinha, Ld. APP
Ms. Madhumita Basak

With
CRM (NDPS) 350 of 2025
Mazarul Haque @ Md. Mazaharul Haque Vs. State of West Bengal

For the Petitioner : Mr. Amit Roy

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Subhasree Patel
Ms. Puja Goswami

With
CRM (NDPS) 356 of 2025
Amanu Sk @ Md. Amanu Sekh Vs. State of West Bengal

For the Petitioner : Mr. Avinaba Patra
Mr. Agnik Maulik

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Avishek Sinha
Mr. Sourath Nandy

With
CRM (NDPS) 373 of 2025
Fainul Sk. @ Sekh Vs. State of West Bengal

For the Petitioner : Mr. Wasim Akram
Ms. Sabrina Parveen

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Joydeep Roy
Mr. Dipankar Paramanick

With
CRM (NDPS) 377 of 2025
Ariful Islam And Ors. Vs. State of West Bengal

For the Petitioners : Mr. Avik Ghatak
Mr. Purbayan Chakraborty
Mr. Akash Ghosh

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Joydeep Roy
Ms. Afreen Parveen

With
CRM (NDPS) 394 of 2025
Swapan Alias Moni Biswas Vs. State of West Bengal

For the Petitioner : Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Bibaswan Bhattacharya
Mr. Rajashree Tah

With
CRM (NDPS) 401 of 2025
Abdul Khalek Vs. State of West Bengal

For the Petitioner : Mr. Wasim Akram
Ms. Sabrina Parveen

For the State : Mr. Kishore Dutta, Ld. AG

With
CRM (NDPS) 412 of 2025
Diwakar Mandal and Anr. Vs. State of West Bengal

For the Petitioners : Mr. Arup Kumar Bhowmick
For the State : Mr. Kishore Dutta, Ld. AG
Mr. Rana Mukherjee
Ms. Trina Mitra

With
CRM (NDPS) 423 of 2025
Md. Sahajan Sk. And Ors. Vs. State of West Bengal

For the Petitioners : Mr. Avik Ghatak
Mr. Purbayan Chakraborty
Mr. Akash Ghosh
For the State : Mr. Kishore Dutta, Ld. AG

With
CRM (NDPS) 490 of 2025
Jahangir Alam and Ors. Vs. State of West Bengal

For the Petitioners : Mr. Purbayan Chakraborty
Mr. Akash Ghosh
For the State : Mr. Kishore Dutta, Ld. AG

With
CRM (NDPS) 501 of 2025
Bapi Mondal @ Bapli Vs. State of West Bengal

For the Petitioner : Mr. Arup Kumar Bhowmick
For the State : Mr. Kishore Dutta, Ld. AG
Mr. Avishek Sinha
Mr. Parvez Anam

With
CRM (NDPS) 516 of 2025
Sunil Garai Vs. State of West Bengal

For the Petitioner : Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha
Ms. Upasana Banerjee
For the State : Mr. Kishore Dutta, Ld. AG
Ms. Anasuya Sinha, Ld. APP
Ms. Sudeshna Das

With
CRM (NDPS) 518 of 2025
Sadhu Mondal and Anr. Vs. State of West Bengal

For the Petitioners : Mr. Soumyajit Das Mahapatra
Mr. Md. Golam Nure Imrohi

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Sreyashee Biswas
Mr. Sandip Kundu

With
CRM (NDPS) 520 of 2025
Sajal Haldar Vs. State of West Bengal

For the Petitioner : Mr. Soumyajit Das Mahapatra
Mr. Md. Golam Nure Imrohi

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Amita Gaur
Mr. Saptarshi Chakraborty

With
CRM (NDPS) 521 of 2025
Rasid Sk. @ Rashid Sk Vs. State of West Bengal

For the Petitioner : Mr. Soumyajit Das Mahapatra
Mr. Md. Golam Nure Imrohi

For the State : Mr. Kishore Dutta, Ld. AG

With
CRM (NDPS) 524 of 2025
Pradeep Xavier Tirkey @ Pradip Xaviar and Anr Vs. State of West Bengal

For the Petitioners : Mr. Purbayan Chakraborty
Mr. Akash Ghosh

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Joydeep Roy

Ms. Puspita Saha

With
CRM (NDPS) 528 of 2025
Rony Sk. @ Rony Shaikh Vs. State of West Bengal

For the Petitioner : Mr. Soumyajit Das Mahapatra
Mr. Md. Golam Nure Imrohi

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Anasuya Sinha, Ld. APP
Ms. Rita Dutta

With
CRM (NDPS) 548 of 2025
Achinta Mondal Vs. State of West Bengal

For the Petitioner : Mr. Arup Kumar Bhowmick

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Sarjati Dutta
Mr. Asraf Mondal

With
CRM (NDPS) 549 of 2025
Anwar Hossain Vs. State of West Bengal

For the Petitioner : Mr. Arup Kumar Bhowmick

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Sreyashi Biswas
Mr. Rajesh Jana

With
CRM (NDPS) 552 of 2025
Safikul Sk. Vs. State of West Bengal

For the Petitioner : Mr. Sandip Chakraborty
Mr. Kaustav Das

For the State : Mr. Kishore Dutta, Ld. AG
Ms. Sreyashee Biswas
Mr. Sobhan Gani

Heard on : 20.05.2025

Judgment on : 22.05.2025

Dr. Ajoy Kumar Mukherjee, J.

1. Placing reliance mainly on paragraph 21 of ***Vihaan Kumar Vs. State of Haryana & another*** reported in **2025 SCC online SC 269**, each and every petitioner of the above mentioned applications, all of whom, are accused of committing offences under the provision of Narcotic Drugs and psychotropic Substances Act, 1985(hereinafter referred as NDPS Act,) made a prayer before this court to pass order of release forthwith, alternatively to grant ad-interim bail, pending disposal of bail application on merit, on the ground that when they were arrested they were not communicated with the grounds of arrest or grounds of arrest in their vernacular language or the language which they understand as mandated under Article 22(1) of the Constitution of India read with section 52(1) of NDPS Act.
2. Before entering into the merit of all such prayers, let me reproduce paragraph 21 of ***Vihaan Kumar's Case (Supra)***.

“21. Therefore, we conclude:

- a) *The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);*
- b) *The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;*
- c) *When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);*
- d) *Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article*

22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.”

3. Learned counsel appearing on behalf of the petitioners argued that time and again the Apex Court and the High Courts have taken consistent view that a person before getting arrested should know as to why he is being arrested. Referring Constitution Bench Judgment in **in *Harikishan Vs. State of Maharashtra and others*** reported in **AIR 1962 SC 911** and also referring the judgment of ***Madhu Limaye and others*** reported in **1969 (1) SCC 292**, it has been contended that the Magistrate across India is under obligation to check the validity of arrest before remanding them into custody and they were further reminded not to oblivate of the fact that an order of judicial remand does not get affirmation, which is in contrast to our constitutional as well as statutory pre requisites.

4. Learned counsel for the petitioners further relied upon ***Deepak Mahajan's Case*** reported in **(1994) 3 SCC 440**, where it has been clearly observed that a statutory duty is enjoined on arresting officer to inform the arrestee of the grounds for such arrest as contemplated under Article 22(1) of the Constitution and section 50 of the Code of Criminal procedure and they have necessarily to make records of their statutory functions, showing the name of the informant and other particulars.

5. Referring a recent judgment in ***Pankaj Bansal Vs. Union of India***, reported in **(2024) 7 SCC 676** learned counsel for the petitioners contended that while dealing with a bail application in money laundering case under the Act of 2002, the Supreme Court once again came down heavily upon the magistrate for non-adherence of the constitutional mandate before remanding the accused under section 167(1) of the Code of Criminal Procedure. In that case the remand order under section 167(1) of the Cr.P.C. was conspicuously silent as to whether the learned Magistrate therein has perused the ground of arrest or not and the appellant therein was granted bail because of such elementary fault on the part of the prosecution as well as magistrate, making arrest illegal.

6. They further argued that it is true that later on such view was criticised in the case of ***Ram Kishor Arora Vs. E.D.***, reported in **(2024) 7 SCC 599** as the same runs counter to ***Vijay Madan Lal Chowdhury Vs. Union of India***, reported in **(2023) 12 SCC 1** but the same was doubted only because the case was of Prevention of Money Laundering Act and the interpretation of section 19 has been done by a Larger Bench in ***Vijay Madan Lal Chowdhury's Case (Supra)***. However, they submit that a review petition has been filed which is pending for further hearing.

7. This issue was once again raised in ***Prabir Purkayastha Vs. State NCT Delhi*** reported in **(2024) 8 SCC 254** where the Apex Court again reiterated that 'reason of arrest' and 'grounds of arrest' are not the same thing, as the reasons of arrest as indicated in the arrest memo are purely formal parameters viz. to prevent the accused persons from committing any offence, for proper investigation of the offence, to prevent the accused

person from causing the evidence of the offence to disappear or tampering with such evidence in any manner, to prevent the arrested persons from making inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to the investigating officers, whereas the grounds of arrest would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. In this context petitioners also heavily relied upon observations made by Supreme Court in Paragraph 13 to 21 of ***Vihaan Kumar's Judgment (Supra)***.

8. Accordingly petitioners contention is that in a criminal case '*innocent till found guilty*' is the touchstone in criminal justice delivery system and section 52 of the NDPS Act uses the term 'shall' which needs no elaboration that the arrestee has the statutory right of knowledge as to why he is being detained. Since all the bail applicants/ the petitioners herein specifically averred that they have been falsely implicated by the prosecuting agency and before passing remand order they had no knowledge as to why they have been detained and forwarded before a court of law, so there is complete violation of the mandate of law and as such each and every petitioner is entitled to be released on bail instantly without going into further merit of their respective cases.

9. While coming to the factual aspect of each and every case the ground taken by petitioner(s) of respective cases are as follows:-

10. CRM (NDPS) 169 of 2025

- (i) The arrest memos has been prepared in English wherein the petitioners put their LTI which shows that they could not understand the language of arrest memo even.*
- (ii) No ground of arrest has been informed*
- (iii) FIR/forwarding report/first remand order passed by the court does not show that there has been communication regarding grounds of arrest.*
- (iv) The independent witness put their LTI in the seizure list as well as the arrest memo, which gives an assumption that independent witness had no knowledge about the content*

11. CRM NDPS 312 of 2025

The petitioner has not been served with any piece of paper by the NCB Officials in writing or in any other way which can show the ground of his arrest which according to petitioner is complete violation of article 22(1) of the Constitution.

12. CRM NDPS 490 of 2025

The petitioners after being arrested were not informed of the grounds for such arrest either orally or in writing in violation of article 22(1) of the Constitution of India read with section 52(1) of NDPS Act. The arrest memos are also complete silent on this aspects. No document was handed over at the time of arrest or production before the court.

13. CRM NDPS 423 of 2025

The ground of bail prayer is the same as above.

14. CRM NDPS 528 of 2025

- (i) No ground of arrest has been informed to the petitioner*
- (ii) FIR/forwarding report/first remand order passed by the ld. Magistrate does not show that there has been communication regarding ground of arrest*
- (iii) The petitioner was apprehended on 27.09.2024 but produced before the court on 30.09.2024 which is also an infraction of constitutional safeguard under article 22(2)*

15. CRM NDPS 521 of 2025

- (i) No ground of arrest has been informed to the petitioner*
- (ii) FIR/forwarding report/first remand order passed by the ld. Magistrate does not show that there has been communication regarding ground of arrest.*

16. CRM NDPS 520 of 2025

Grounds for bail is same as above.

17. CRM NDPS 518 of 2025

- (i) The arrest memo has been prepared in English wherein the petitioner no.1 put his LTI and the petitioner no.2 signed in Bengali which means that they could not understand the language of arrest memo even*
- (ii) No ground of arrest has been informed to the petitioners*
- (iii) FIR/forwarding report/first remand order passed by the learned Magistrate does not show that there has been communication regarding ground of arrest*
- (iv) No videography was done in compliance with mandatory provision.*

18. CRM NDPS 516 of 2025

- (i) No ground of arrest has been informed*
- (ii) FIR/forwarding report/first remand order passed by the ld. Magistrate does not show that there has been communication regarding ground of arrest.*
- (iii) No penal provision under which they have been booked has been mentioned in the arrest memo even.*

19. CRM NDPS 552 of 2025

- (i) Written ground of arrest was not given to the accused or his relatives*
- (ii) Videography of the entire process of alleged search and seizure has not been done.*

20. CRM NDPS 377 of 2025

- (i) The documents served upon the petitioners purportedly as communication of the grounds of arrest, merely records that a phone call was made to their family members. In fact no such call was made.*
- (ii) The grounds of arrest were not conveyed in writing to the family members or nominated persons*
- (iii) The petitioners who belong to the working class and are not conversant with English were purportedly informed of their grounds of arrest, a language they do not understand.*

21. CRM NDPS 295 of 2025

- (i) No grounds of arrest has been informed*

- (ii) FIR forwarding report/first remand order passed by the Magistrate does not show that there has been communication regarding ground of arrest.*
- (iii) Column 2 (c) of both the arrest memo remains blank which shows that none of the friend /relative/legal aid organization/local police station has been informed violating section 50A of the Cr.P.C.*
- (iv) The arrest memo has been prepared in English where in the petitioners put their LTI which shows that they could not understand the language of arrest memo even.*

22. CRM 290 of 2025

- (i) Reasons for arrest has been informed through arrest cum personal search memo but no ground of arrest has been informed to the petitioner*
- (ii) The arrest memo has been prepared in English wherein the petitioner put his LTI, which means that he could not understand the language of arrest memo.*
- (iii) FIR forwarding report/first remand order dated 20.02.2023 passed by learned Special court does not show that there has been communication regarding ground of arrest.*

23. CRM NDPS 230 of 2025

- (i) No ground of arrest has been informed*
- (ii) FIR/forwarding report/first remand order passed by Magistrate does not show that there has been communication regarding ground of arrest.*
- (iii) Arrest memo preparing in English whereas the petitioners somehow draw their signature in Bengali which shows that they cannot understand the language even.*
- (iv) Column 2 (c) of both arrest memo remains blank which shows that none of the friend/relative/legal aid organization local police station has been informed violating section 50 A of the Cr.P.C.*

24. CRM NDPS 356 of 2025

- (i) Grounds of arrest has not been communicated to the petitioner at the time of arrest*
- (ii) Ground of arrest never communicated to the petitioner in vernacular language when petitioner put his LTI on that paper.*
- (iii) Memo of arrest does not bear any column for describing the reasons for arrest or ground for arrest.*
- (iv) There is nothing to show that ground of arrest was read over and explained to the petitioner who is an illiterate person.*

25. CRM NDPS 373 of 2025

- (i) Grounds of making prayer is the same.*

26. CRM NDPS 235 of 2025

- (i) The petitioner has not been communicated the grounds of arrest in writing or otherwise and the same is apparent from the memo of the arrest of the petitioner.*
- (ii) There is no indication that the petitioner was arrested after a written report obtaining prior permission of the judicial magistrate and as such arrest is void ab initio.*
- (iii) The arrest of the lady accused was made in between sunset and sunrise without any written permission from local magistrate. There are discrepancies in between the arrest memos of four accused persons*

27. CRM NDPS 524 of 2025

- (i) Both petitioners were arrested without being informed about ground of arrest*
- (ii) No document was handed over at the time of arrest*
- (iii) The arrest memo is also silent on this aspect.*

28. CRM NDPS 337 of 2025

- (i) the petitioner were arrested without being informed of the grounds of arrest either orally or in writing*
- (ii) No documents was handed over at the time of arrest or first production before the court*
- (iii) The arrest memo are also completely silent on this aspects*

29. The grounds taken other applications being **CRM (NDPS) No. 412/2025, CRM (NDPS) No. 242/2025, CRM (NDPS) No. 230/2025, CRM (NDPS) No. 401/2025, CRM (NDPS) No. 549/2025, CRM (NDPS) No. 501/225, CRM (NDPS) No. 345/2025, CRM (NDPS) No. 548/2025, CRM (NDPS) No. 394/2025**, are almost of the same i.e. grounds of arrest was never communicated to the accused.

30. Mr. Kishore Dutta, learned Advocate General for the State in all the above-mentioned applications (except CRM NDPS 312 of 2015 which has been investigated by the NCB) submits that the state has complied the statutory provisions at the time of arrest. Almost all the accused persons

herein served with arrest memo. Notice under section 50 of NDPS Act also served and videography also done as shown in the table. As such on the technical ground as raised by the petitioners are not sufficient to release them even on interim bail, considering gravity of the allegations levelled against them. So far as factual aspect is concerned, he placed his reply in the following tabular form:-

| S. No. | CRM (NDPS) No. | PS Case | S.50 NDPS | Videography (case diary page) | Arrest Memo (case diary page) | Seizure List(case diary page) | Seizure |
|---------------|-----------------------|----------------------------|-------------------------------------|---|---|--------------------------------------|---|
| 1. | 412/2025 | Baishnab Nagar 776/2024 | Pg.21,23 | Mentioned in FIR Pg.6 | Pg. 13,16 | Pg.8 | 275 gm of brown sugar from petitioners |
| 2. | 373/2025 | Baishnab Nagar 918/2024 | Pg.64,65 | Mentioned in FIR Pg.7 | Pg. 53 | Pg.9 | 6.064 kg wet Brown Sugar |
| 3. | 242/2025 | Bagda 470/24 | Pg.8 | Mentioned in seizure list Pg.13 Also mentioned in inventory. Pg.11 | Pg. 7(no signature of the relative or guardian) And pg.16(re arrest complainant's signature) | Pg.9 | 150 bottles phensedyl 100 ml each. |
| 4. | 524/2025 | Baishnab Nagar 542/2023 | Pg.14,15 | Pg.22 | Pg. 38,39 | Pg.16,17,18 | 9.989 kg of heroin. |
| 5. | 350/2025 | Goalpokher 30/2024 | Mentioned in charge sheet. Pg.92 | Mentioned in seizure list. Pg. 86 | Pg. 13 | Pg. 14 | 100 bottles of phensedyl |
| 6. | 518/2025 | chapra 990/2024 | Pg. 20 | Pg. 15 | Pg. 11 | Pg. 14 | 140 Kg of ganja |
| 7. | 337/2025 | Kaliachak 811/2024 | P.6, 7, 11 | Mentioned in FIR Pg. 2 | Pg. 34, 35 | Pg. 5, 120 | 300 gm of brown sugar from the vehicle of petitioner No.1 |
| 8. | 520/2025 | Bhimpur 340/2023 | Pg. 16 | Pg. 58 | Pg. 26 Grounds of arrest mentioned in FIR Pg.4 | Pg.18, 19 | 200 bottles of phensedyl from a vehicle in the petitioner's presence; 1800 bottles of phensedyl from a vehicle in the presence of co-accused |
| 9. | 235/2025 | Baruipur 1865/2024 | Pg. 14 | Pg. 73 | Pg. 35 | Pg. 21 | 120.767 Kg of ganja from |

| | | | | | | | |
|-----|----------|-------------------------------|--------------------------|--|--|-----------------|--|
| 10. | 230/2025 | Karimpur 129/2024 | Pg. 11, 12 | Mentioned in charge sheet. Pg. 473 | Pg. 23, 24 | Pg. 15 | a vehicle 150 Kg of ganja from the petitioners in the presence of GO |
| 11. | 295/2025 | Baishab Nagar 561/2024 | Pg. 15 | Mentioned in FIR Pg. 4 | Pg.9 | Pg. 6 | 420 gm of brown sugar from the petitioner |
| 12. | 490/2025 | Baishnab Nagar 590/2024 | Pg. 176, 177, 178 | Mentioned in FIR Pg. 4 | Pg. 168, 169, 170 Grounds of arrest were communicated to the accused pg. 4 | Pg.165,166 | 400 gm of brown sugar from the petitioners |
| 13. | 169/2025 | Ranitala 424/2024 | Pg. 8,9 | Mentioned in FIR pg.2 | Pg.3,4 | Pg.12 | 312 gm of heroin from the petitioners |
| 14. | 423/2025 | Kaliachak 1209/2024 | Mentioned in FIR Pg.4 | Pg.43 | Pg. 24 to 26 grounds of arrest mentioned in FIR pg.5 | Pg.21 | 451 gm of brown sugar from the petitioners |
| 15. | 552/2025 | Kaliachak 1212/2023 | Mentioned in FIR Pg.2 | Mentioned in FIR pg.2 | Pg.11 Grounds of arrest mentioned in FIR pg. 2 | Pg.13 | 435 gm of heroin from the petitioner |
| 16. | 401/2025 | Sankrail 680/2023 | Pg.23 | Mentioned in FIR pg.2 | Pg.9 | Pg.7 | 87.6 kg of ganja from the petitioner |
| 17. | 377/2025 | Gazole 81/2025 | No | Mentioned in FIR pg.18 | Pg.31,32,33,34 served notice indicating grounds of arrest. pg. 23 to 26 | Pg. 38 to 53 | 20000 bottles of phensydyl of 100 ml each from a vehicle in the presence of petitioners |
| 18. | 521/2025 | Rani Nagar 523/2024 | Pg.12 | Pg.40 | Pg. 17 Grounds of arrest mentioned in FIR Pg.3 | Pg.18 | 600 bottles of phensydyl 100 ml each from the petitioners |
| 19. | 549/2025 | Baishnab Nagar 491/2021 | Not applicable | No | Pg.55 grounds of arrest mentioned in charge sheet. pg. 101 | Pg.84 | 350 bottles of phensedyl from an abandoned vehicle (petitioner is the owner of the vehicle) |
| 20. | 290/2025 | Sankrail 154/2023 | Pg.6 | Pg. 4 | Pg.11 | Pg.10 | 3455 lit of codeine from the petitioners |
| 21. | 528/2025 | Kaliganj 843/2024 | Pg.14 | Mentioned in FIR pg.5 | Pg. 9 (Note: petitioner was arrested on 27.9.2024, forwarded to court on 30.09.2024- | Pg.7 | 39.870 kg of ganja from the vehicle in the petitioner's presence |

| | | | | | | | |
|-----|----------|--|----------------|-------------------------|--|---------|--|
| | | | | | pg. 12 of petition) | | |
| 22. | 501/2025 | English Bazar 722/2024 | Pg.5 | Pg.11 | Pg.10 | Pg.7,16 | 188 bottles of triprolidine hydrochloride and codeine phosphate from the petitioner |
| 23. | 356/2025 | Kaliachak 56/2021 | Not applicable | No | Petitioner was absconding, he was arrested after 3 years from date of incident. | Pg.56 | 1610 kg of brown sugar from the petitioner's house |
| 24. | 345/2025 | Howrah GRPS 98/2023 | Pg.38 | Mentioned in FIR pg.4,5 | Pg.34 | Pg.24 | 86 gm of cocaine from petitioner. |
| 25. | 516/2025 | Jamboni 88/2024 | Pg.8 | Mentioned in FIR pg.3 | Pg.36 Grounds of arrest mentioned in arrest cum inspection memo. Pg. 34 and in FIR pg.6 | Pg.18 | 25.512 kg of ganja from a vehicle in the petitioners' presence. |
| 26. | 548/2025 | Kaliachak 436/2022 | Not applicable | No | Pg. 30 | Pg.4 | 300 bottles of phensedyl from a vehicle (petitioner is the owner of the vehicle) |
| 27. | 394/2025 | Gobardanga 194/2024 | Pg.11 | Pg.80 | Pg. 8 Grounds of arrest mentioned in FIR pg. 3 | Pg.7 | 5 lit of codeine from the petitioner |
| 28. | 312/2025 | Information of arrest duly communicated to the accused as appearing in the case diary. | | | | | |

31. At the outset the preamble of the NDPS Act needs to be recollected:-

“An Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances and for matters connected therewith.”

32. In the course of hearing learned Advocate General on behalf of the State and Mr. Trivedi learned Additional Solicitor General on behalf of the NCB have relied upon the Three Judges Bench judgment in ***Narayana Swamy Rabishankar Vs. Assistant Director of Revenue (intelligence)***

reported in **(2002) 8 SCC 7** and contended that the same question of non-communication of ground of arrest was agitated in a proceeding under NDPS Act before the Supreme Court and in para 6 of the said judgment Court held as follows:-

“6. It was also contended by the learned Senior Counsel that the ground on which the appellant was arrested was not communicated to him. We find no merit in this because the arrest memo clearly indicates the offence stated to have been committed by the appellant under the NDPS Act. Further, the record also shows that copy of the arrest memo Ext. P-20 was received by the appellant.”

33. Mr. Kishore Dutta learned Advocate General and Mr. Trivedi learned Additional Solicitor General both argued that the judgment so far relied upon by the petitioners do not relate to any offence under the NDPS Act. They further argued that the observation made in the said ***Narayana Swamy Rabishankar Vs. Assistant Director of Revenue (intelligence) (supra)*** judgment has not yet been overruled by any Larger Bench. Both of them accordingly submit that aforesaid each and every bail application is to be disposed off on merit and the petitioners are not entitled to get any interim bail on that ground. They further submits that learned Trial Court in all the cases have authorized remand prayer and in most of the cases either investigation completed or the investigation is on the verge of completion and in some of the cases even trial started and as such this is not the appropriate stage for releasing all the accused persons on bail after such a long period of time from arrest, only on the ground that the information about the grounds of arrest was not systematically communicated to them. Both of them also submit that if at this stage all the petitioners are being released only on that ground, it would amount to opening of a flood gate and

there is every likelihood that the accused persons will abscond and the trial will be either hampered or will be filed for ever.

34. Having heard so, I also find that the Apex Court while dealt with a bail application under section 37 of the NDPS case in ***Superintendent, Narcotic Control Bureau, Chennai Vs. R. Paulsamy*** reported in **(2000) 9 SCC 549** where the points raised were that there was prima facie violation of section 52 of the NDPS Act and there was also prima facie non-compliance with section 57 of the NDPS Act and therefore whether these two violations were sufficient for adopting the exceptional course of granting bail to an accused involved in the offence under the NDPS Act. The Apex Court replied the same in para 5 to 7 as follows:-

“5. This court has laid down the parameters to be followed while considering the application for bail moved by an accused involved in offences under the NDPS Act vide Union of India v. Ram Samujh [(1999) 9 SCC 429 : 1999 SCC (Cri) 1522 : JT (1999) 6 SC 397] . It is unnecessary for us to repeat those parameters over again. We have no doubt that learned Single Judge has not followed the aforesaid parameters in this case.”

“6. In the light of Section 37 of the Act no accused can be released on bail when the application is opposed by the Public Prosecutor unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offences and that he is not likely to commit any offence while on bail. It is unfortunate that matters which could be established only in offence regarding compliance with Sections 52 and 57 have been pre-judged by the learned Single Judge at the stage of consideration for bail. The minimum which learned Single Judge should have taken into account was the factual presumption in law position that official acts have been regularly performed. Such presumption can be rebutted only during evidence and not merely saying that no document has been produced before the learned Single Judge during bail stage regarding the compliance with the formalities mentioned in those two sections.”

“7. We may also observe that learned Single Judge has not recorded a finding in terms of Section 37 of the Act which is sine qua non for granting bail to an accused involved in the offence under the Act.”

35. In ***Balbir Kaur Vs. State of Punjab*** reported in **(2002) 8 SCC 7** where the appellant was in conscious possession of the contraband substance, the allegations of non-disclosure of the purpose of search and

the grounds of arrest to her were held to be of technical nature. The observation of court in para 20 and 21 are as follows:-

“20. In view of the concurrent findings of the trial court and as also the High Court holding that the appellant was in conscious possession of the said contraband goods, the allegation of non-disclosure of the purpose of search and the grounds of arrest to her are all of technical nature and without there being any material force in them. The appellant herself knew that she was being searched for possession of contraband goods, and therefore, she had also sought for protection as provided under Sections 52 and 57 of the NDPS Act.”

“21. The appellant was being searched and arrested on account of possession of contraband goods. The violation of the provisions of the NDPS Act was clearly known to her. The allegation that she herself asked for such protection instead of prosecution giving her the option to be searched before a gazetted officer, as required under the law, would not in any manner adversely affect her conviction and order of sentence passed by both the courts below. No prejudice could be shown by the appellant against the DSP, who was a gazetted officer and the lady officer present at the time of search.”

36. In ***Madan Lal and another Vs. state of H.P.*** reported in **(2003) 7 SCC 465** it was held that where the possession is established the persons who claims that it was not a conscious possession has to establish it because how he came to be in possession is within his special knowledge. Section 35 of the Act gives a statutory recognition of this position because of the presumption available in law. Similar, is the position in terms of section 54 where also presumption is available to be drawn from possession of illicit articles.

37. In most of the instant bail applications as stated above the recovery was made from the possession of the petitioners who according to prosecution case knew about the transportation or carrying narcotic substance and each of them had alleged role in the transportation and/or possession with conscious knowledge of what they are doing.

38. Even on perusal of ***Vihaan Kumar Case (supra)*** in paragraph 17, it appears that the argument canvassed on behalf of the respondents is that even if the appellant is released on the grounds of violating Article 22, the

arresting officer can arrest him again or not and the Hon'ble Supreme court held "at this stage it is not necessary to decide the issue." Accordingly Supreme Court has not yet completely negated said issue and has kept it open for future consideration.

39. Petitioner heavily relied upon a co-ordinate Bench judgment of this court in **CRM (NDPS) 144 of 2025, (Ramkrishna Vs. State of West Bengal)**, where in an offence under NDPS Act, bail prayer of petitioner was allowed only on the ground of non-compliance of section 52(1) of the NDPS Act, without going into merit of the case. But it appears that the above-mentioned judgments of Supreme Court passed in connection with stringent provisions under the NDPS case were neither referred nor discussed in the said judgment, while dealt with bail prayer of the accused, and as such it is not binding upon me.

40. Considering observations made in above mentioned cases viz. **Superintendent, NCB Chennai (Supra)** and **Narayanaswamy Rabi Shankar (supra)**, it appears to me that the offence under NDPS Act containing stringent provisions are not to be equated with general offences. Needless to say that the NDPS Act has been enacted by the legislature to achieve specific purpose and objectives as stated in preamble and in the object and reasons of the Act. Fundamental rights usually strikes a balance between individual liberty with the interest of justice and social control. Offences under NDPS Act are very serious in nature and any sort of indulgence against combatting such menace may have a detrimental effect in the society, more specifically it's adverse impact may destroy specially the young generation of the country. It is quite expected that the stringent

provisions of the Act which includes section 37 of the Act must be construed in the manner which would enhance the objectives of the special Act and not to frustrate the very purpose and objective of the Act. While dealing with such issue, court must be cautious in exercise of the power, so that it must not create any undue advantage or benefit to the persons accused of serious offences under the NDPS Act or to demoralise the officers who have been specially conferred with the powers to combat the serious crime and/or encourage the unscrupulous element to commit crime. An offence under the NDPS Act cannot be compared with the ordinary offences committed against an individual or with the accused of ordinary crime. It is a crime against society at large and the nation itself. I am afraid that any other interpretation of stringent provisions including section 37 of NDPS Act may frustrate the very purpose and objectives of the Act.

41. In such view of the matter and also in view of the observation made by Three Judges Bench in ***Narayanaswamy Rabi Shankar Case (supra)*** and Division Bench judgment in ***Superintendent, NCB, Chennai case (Supra)*** which observations still holds good, so far as the offences under NDPS act is concerned, I am agreeable with the submissions made by learned Advocate General and learned Additional Solicitor General that the petitioners are not entitled to release forthwith without hearing bail application on merit nor entitled to immediate release on interim bail on the ground mentioned in their respective petitions. Accordingly prayer for release or enlargement on interim bail prayer made by the petitioners on their alleged ground that the ground of arrest was not communicated to each of the petitioners are not allowed at this stage. Since, the petitioners were not heard on merit in

respect of their respective bail prayers, the rest above-mentioned 27 applications are hereby detagged from the application being CRM NDPS 169/2025 and each application will be listed for hearing on merit, immediate after re-opening of the court after summer vacation.

42. The interim bail prayer and/or forthwith release prayer made on behalf of the petitioners in the aforesaid 28 bail applications thus stands disposed of.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)