CALCUTTA HIGH COURT

APPELLATE SIDE

IN THE CIRCUIT BENCH AT JALPAIGURI

CRIMINAL MISCELLANEOUS JURISDICTION

27.11.2026

ct 5

C.R.M. (NDPS) 450 of 2026

sl no.6

PA/Chanchal

/Rohit

In Re : An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with ***Pradhan Nagar*** P.S. Case No. ***444*** of 2025 dated ***30.06.2025*** Sections ***21(c) and 22 (c)*** of NDPS Act,.

Rejected

In Re : Sapan Roy

….. petitioner

Mr. Subham Ghosh, Adv.
Mr. Mayank Roy, Adv.

…… for the petitioner

Mr. Avrojyoti Das, Ld. A.P.P.
Mr. Bijay Bikram Das, Adv.
Ms. Baishali Chakraborty, Adv.

…. for the State

1. The Superintendent of Siliguri Special Correctional Home appeared before this Court in compliance of the order dated 26.11.2026. He submits to have forwarded the report in connection of the health of the present petitioner prepared by the pharmacist on behalf of the medical officer, Siliguri Special Correctional Home as the medical officer who visits

the Correctional Home once in a week has been absent. Let the said report be kept on record.

2. The report submitted by the Superintendent of Siliguri Special Correctional Home indicates the health condition of the petitioner has been reported by a pharmacist on behalf of the medical officer, Siliguri Special Correctional Home. It further appears that the medical officer visits the Correctional Home only once a week without adherence to any predetermined schedule.

3. The arrangement is manifestly inadequate to ensure regular medical supervision of the inmates. The health of persons confined in a Correctional Institution cannot be left to intermittent examination or reports prepared by personnel who are not medically qualified to undertake such assessment. Accordingly, the following directions are issued.

> ***"I)*** The Principal Secretary, Department of Health and Family Welfare, Government of West Bengal and the Principal and CMOH, North Bengal Medical College and Hospital shall ensure that a qualified medical officer is deputed to Siliguri Special Correctional Home at least twice every week on a roster basis for examination and medical supervision of the inmates.
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> ***II)*** A fixed weekly roster specifying the dates and hours shall be prepared by the Principal and CMOH, North

Bengal Medical College and Hospital. The roster shall be communicated to the Superintendent of the Correctional Home and shall be strictly adhered to. The Health Department, as aforesaid may be consulted if necessary.

III) During each visit, the Medical Officer shall attend to the inmates requiring medical attention, examine their health complaints, assess their medical condition, and prescribe appropriate treatment. Any inmate requiring specialist consultation, diagnostic investigation or hospitalization shall be referred to the appropriate medical facility without delay.

IV) A separate health record shall be maintained in respect of every inmate recording the date of examination, medical findings, complaints report, treatment prescribed, medicines administered and further medical advice, wherever necessary. The Medical Officer conducting the examination shall authenticate each entry by affixing his signature and designation. The individual health records of the inmates shall remain in the custody of the Superintendent, Siliguri Special Correctional Home who shall ensure that the same are produced before the visiting Medical Officer at every scheduled visit and update contemporaneously after each examination. The records shall be preserved and made available for

inspection by the competent authority or the Court whenever directed.

v) The Health Department and the Principal and CMOH, North Bengal Medical College and Hospital shall ensure that the absence or unavailability of the Medical Officer assigned under the roster does not result in interruption of medical services. A substituted Medical Officer shall be deputed in such circumstances.

VI) The Superintendent shall maintain a separate register recording the attendance of the deputed Medical Officer, the duration of each visit and the number of inmates examined. Any departure from the prescribed roster shall be specifically recorded together with the reason therefor. The aforesaid arrangement is directed to be followed in respect of each and every Correctional Home situated in the Districts and Sub-divisions of the State of West Bengal. The Principal Secretary, the Department of Health and Family Welfare, Government of West Bengal, the Principal and CMOH of North Bengal Medical College and Hospital as well as District Medical College and Hospitals established in the Districts and Sub-divisions of West Bengal shall ensure strict compliance with the aforesaid directions.

4. A copy of this order be communicated to the :- The ***Principal Secretary***, the ***Department of Health and Family***

Welfare, ***Government of West Bengal***, the ***Principal*** and ***CMOH*** of ***North Bengal Medical College*** and ***Hospital*** as well as ***District Medical College and Hospitals*** established in the ***Districts*** and ***Sub-divisions of West Bengal*** by the Registrar, Circuit Bench, Jalpaiguri for information and compliance.

5. An action taken report accompanied by the prescribed roster and particulars of the Medical Officers deputed shall be filed before the Registrar, Circuit Bench, Jalpaiguri within sixty days from the date of communication of this order.
6. The Superintendent of the respective Correctional Homes as aforesaid shall also ensure that no inmate requiring urgent medical attention is compelled to await the next scheduled visit of the Medical Officer.
7. The personal appearance of the Superintendent, Siliguri Special Correctional Home is noted and dispensed with.
8. The petitioner has been detected to have contacted HIV disease and been treated by the North Bengal Medical College and Hospital, Siliguri with Registration No.WB/NB/010125 dated 10.07.2025 and receiving Antiretroviral Therapy (ART) at the ART Centre.
9. The Learned Advocate representing the petitioner submitted the petitioner to have rebutted the presumption under Section 37 of the NDPS Act whereby suffering from the aforesaid disease will preclude him from commission of any

offence relating to NDPS Act if released on bail and relied on the decisions of the Hon'ble Supreme Court in 2024 LawFinder (SC) 3239 and 2024 LawFinder (SC) 3238 and prayed for release of the petitioner on bail.

10. The Learned Advocate representing the State opposed the prayer for grant of bail considering the commercial quantity of narcotic drugs to the extent of 3600 mililitre in 36 bottles of Rexley-T cough syrup being recovered from the possession of the petitioner.

11. The Learned Advocate representing the State relied upon the decision of the Hon'ble Supreme Court in ***State of Meghalaya vs. Lalrintluanga Sailo and Anr. [2024 SCC OnLine SC 1751]*** whereby the Hon'ble Supreme Court refused to release the accused solely on the ground of being HIV Positive. The petitioner is in custody since 30.06.2025 in connection with seizure of 3600 ml. of narcotic drugs recovered from his possession to the extent of commercial quantity.

12. The petitioner being affected by the aforesaid disease cannot sacrosanctly adhere to the reasons of further non-commission of the alleged offence. The petitioner having failed to mitigate the twin conditions under Section 37 of the NDPS Act is not entitled to be released on bail. Accordingly, prayer for bail is rejected.

13. The Trial Court is to expedite the process of framing charges if not framed till date and proceed with recording of the evidence without granting unnecessary adjournments to either of the parties disregarding cease work, if any, called by the local bar.

(Ananya Bandyopadhyay, J.)