IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Tirthankar Ghosh

CRM (NDPS) 1363 OF 2026

Majid Ali @ Majit Ali @ Alex
-Versus-
Union of India

For the Petitioner **:** Mr. Niladri Sekhar Ghosh, Adv.
Ms. Labani Sikder, Adv.
Mr. Souvik Dey, Adv.
Mr. Subhrajyoti Hazra, Adv.

For the DRI Authority **:** Mr. Kaushik Dey, Adv.
Mr. Tapan Bhanja, Adv.
Mr. Gourab Karmakar, Adv.
Ms. Debjani Halder, Adv.

Reserved On : 08.10.2026

Judgement On : **13.11.2026**

Tirthankar Ghosh, J. :

The present application for bail has been preferred by the petitioner in connection with N.D.P.S Case No. N - 255 of 2025, arising out of DRI/KZU/NDPS/ENQ-75/2025 dated 20.08.2026 under Sections 8(c) read with sections 22(b)/29 of the NDPS Act, 1985.

The prosecution case reflects that acting on specific intelligence, DRI officers intercepted two persons, namely, Sanu Khan and Md. Mehfoz Haiyat, on 19.08.2025, when they were about to leave the office of a courier firm, namely, M/s Shree Maruti Courier Service Private Limited (situated at Topsia Road, Kolkata), after taking delivery of a courier consignment which

arrived from Delhi. The consignment, comprising a soft toy, was opened in the presence of the apprehended persons at the DRI office in New Town, which led to the recovery of 64.87 grams of a white lumpy substance that tested positive for cocaine. The aforesaid two persons revealed that they went to collect the courier parcel on the instructions of the petitioner (Majid Ali @ Alex).

On 20.08.2025, based on further information, DRI officers identified and located another courier parcel at the office of M/s Shree Maruti Courier Service Private Limited (at 3 Airport Gate, SGIL Residenzza Complex, opposite Hazarduari Airport City Hotel, Belghoria Express Highway), bearing Consignment No.25035200224979, booked in the name of one "Mark William", 36, Beck Bagan, Kolkata – 700017, booked on 19.08.2025 from Delhi, Tigri Extension. DRI officers, in the presence of the hub manager of courier company and two independent witnesses, opened the courier parcel at the office of the courier company, and a pink-coloured soft toy (Teddy bear) was recovered. The soft toy was cut open and from its core an irregularly shaped object wrapped in white tissue paper was recovered. Upon removal of the wrappings, three (03) oval-shaped capsules containing a white lumpy substance covered with transparent plastic were recovered. The lumpy white substance weighed 62 grams and tested positive for cocaine.

On the same day, in the afternoon, i.e., 20.08.2025, acting on information Majid Ali/Petitioner was apprehended from the Ballygunge–Hazra Road crossing and brought to the DRI office for questioning. During

the preliminary investigation Majid Ali/Petitioner divulged that a lady passenger, namely, Flourish Ezenwa, a Nigerian national, would be arriving from Delhi to Kolkata by Air India Flight No. AI 2400 at 23:15 hours. Upon arrival of the said flight, the lady passenger was intercepted, and only upon rigorous questioning she admitted carrying cocaine concealed in her rectum, which she needed to eject as it was causing her discomfort. She was issued summons under Section 67 of the NDPS Act, and immediately upon reaching the DRI office, a lady officer accompanied her to the washroom at the DRI office. The Nigerian lady came out after ejecting two oval-shaped capsules containing cocaine from her rectum. Upon weighment, the white lumps so recovered were found to weigh 131.40 grams, and the same tested positive for cocaine.

Investigation revealed that the petitioner had engaged Sanu Khan, Md. Mehfoz Haiyat, Pramod Shaw and Ayaan @ Laale to collect cocaine from courier firms and to receive cocaine from carriers arriving at Kolkata by flights from Delhi.

Learned Advocate appearing on behalf of the petitioner argued regarding the innocence of the petitioner as also his false implication in connection with the present case.

The following issues were highlighted on behalf of the petitioner:

(i) The evidence against the petitioner consists only of statements under Section 67 of the NDPS Act, which are statements of other co-accused and have no evidentiary value after submission of the charge-sheet. To

that effect, the petitioner placed reliance upon the judgment in *Tofan Singh v. State of Tamil Nadu*, reported in *(2021) 4 SCC 1*.

(ii) The only connecting evidence relied upon by the prosecution is the alleged WhatsApp chats, which also have no evidentiary value for the following reasons:

(a) No certificate under Section 65B of the Indian Evidence Act / Section 63 of the Bharatiya Sakshya Adhiniyam was relied upon or produced before the Court.

(b) The WhatsApp chats relied upon by the prosecution, relating to certain banking transactions, are completely denied, as the account do not belong to the present petitioner but stands in the name of Sanu Khan, who is a co-accused and has been released on bail in another case.

(c) The mobile phone seized from the possession of the petitioner do not belong to the petitioner. Further, the SIM card belongs to someone else, and the prosecution has purposely evaded this issue while advancing their arguments. No document was produced to establish any connection between the mobile phone seized and the present petitioner.

(d) The WhatsApp chats clearly indicate that the communications were between one “Mac” and one “Zen”. The prosecution has never claimed that the petitioner is either of them. On the contrary, the name of the petitioner is Majid Ali @ Alex. Neither Mac nor Zen has been made an accused in the instant case.

(e) The same WhatsApp chats which have been used as evidence in the present case were also relied upon in an earlier case, in connection with which the petitioner was released on bail. Additionally, it was argued whether the same evidence could be used in both cases when the cause of action are different.

(iii) The co-accused, namely, Flourish Ezenwa, in her statement before the DRI, revealed that the contraband was received from one Gonzales, which clearly indicates that the WhatsApp chats between Mac and Zen are completely irrelevant in the instant case. There is no material to show any connection between the person named Gonzales and the present petitioner. Moreover, the said Gonzales has also not been made an accused in the instant case.

(iv) The prosecution tried to connect one Mac with the instant case and produced a document to show that Mac was already in custody in another case. The document produced by the prosecution itself reveals that Mac was arrested in January 2025 and has remained in custody since then. Therefore, the present cause of action, which arose on 20.08.2025, could not have any nexus with Mac, as he was already in custody for more than seven months on the date of the incident.

(v) The WhatsApp chats relate to statements, messages and information exchanged over a considerable period of time. It is nearly impossible that the person named Gaurav Gupta, who is the owner of the mobile phone and SIM card, would not have blocked the SIM card and the phone for such a long period or taken any steps in that regard. It is the

case of the petitioner that a nexus existed between the Investigating Officer and Gaurav Gupta, for which the petitioner has been made a scapegoat in order to save the said Gaurav Gupta @ Zen.

(vi) Even if, for the sake of argument, it is accepted that the petitioner had deposited money in the account to purchase cocaine, the amount of the transactions reflected in the WhatsApp chats over a considerable period of time would cumulatively correspond to the purchase of only 5 to 10 grams of cocaine. The said quantity is below commercial quantity and would only indicate that the petitioner was a consumer of drugs and was in no way involved in the racket as alleged by the prosecution.

The petitioner relied upon the judgment in *Bharat Chaudhary v. Union of India*, reported in *(2021) 20 SCC 50*. By referring to the said judgment, the petitioner emphasized that WhatsApp messages downloaded from mobile phones and devices seized from the office premises of the appellant therein could not be treated as sufficient material to establish a live link between the accused and the co-accused, particularly when none of the contraband seized by the prosecution during the course of the search was connected with the petitioner/accused and the allegations were based only on disclosures made by the co-accused.

Petitioner as such prayed for bail on any condition.

Learned Advocate appearing for the DRI opposed the prayer for bail and advanced his arguments on the following issues:

(i) DRI intercepted a courier parcel bearing Consignment No.

25035200224948 dated 18.08.2025, booked from Delhi by one Sandeep Kumar through a courier firm, namely, M/s Shree Maruti Courier, consigned to Kolkata in the name of one Mark William, Beck Bagan, Kolkata, which contained cocaine weighing 64 grams concealed inside soft toys. Sanu Khan and Md. Mehfoz Haiyat went to the courier office to collect the parcel under the instructions of the petitioner/Majid Ali.

(ii) On 20.08.2025, DRI intercepted another courier parcel bearing consignment No. 25035200224979 dated 19.08.2025, at the premises of the courier firm, M/s Shree Maruti Courier, identically booked in the name of Mark William, Beck Bagan, Kolkata, which contained cocaine weighing 62 grams. The cocaine was similarly found concealed in a soft toy.

(iii) In another case involving seizure of a large quantity of narcotic consignments at Delhi by the DRI Delhi Zonal Unit, Sandeep Kumar was arrested, and investigation revealed that the aforesaid two consignments of cocaine were indeed sent by Sandeep Kumar through Shree Maruti Courier under the instructions of one person named Mac. The contact number of Mac provided by Sandeep Kumar to the officers of the DRI Delhi Zonal Unit was +234 8108148441. The same number was found in the mobile phone seized from Majid Ali. In this regard, a complaint was filed on 21.02.2026 before the NDPS Court, Saket, New Delhi. The complaint therein reflects that the two courier parcels were sent through Shree Maruti Courier by Sandeep Kumar in the name of Mark William, addressed at Beck Bagan, Kolkata, under the instructions of a person named Mac. A total of 126 grams of cocaine, constituting commercial quantity, in two consignments booked by

Sandeep Kumar from Delhi, was sent to Kolkata under the instructions of Mac, the user of mobile number +234 8108148441. Both the consignments were meant for Majid Ali, as is evident from the WhatsApp chats found on the mobile phone recovered and seized from the possession of the petitioner/Majid Ali.

(iv) In another case involving seizure of a substantial quantity of narcotic substances at Delhi, officers of the DRI Kolkata Zonal Unit arrested a Nigerian national, Akande Olamide John @ Mac, who is presently in judicial custody at Tihar Jail. The criminal complaint was filed in July 2026 before the NDPS Court, Saket, New Delhi. Investigation into the case revealed that Akande Olamide John is the same person referred to as Mac, the user of Mobile No. +234 8108148441.

(v) Investigation into the seizures of cocaine effected by the officers of the DRI Kolkata Zonal Unit and Delhi Zonal Unit on different dates clearly indicated that the original name of Mac is Akande Olamide John, a Nigerian national, who is the kingpin of a drug syndicate based in Delhi. The said Mac, with the assistance of Sandeep Kumar, was engaged in procuring and sending narcotic substances through courier parcels to different persons across the country. The digital footprints clearly show that Majid Ali is the person in Kolkata who, with the assistance of Sanu Khan and Md. Mehfoz Haiyat, used to collect such parcels received through the courier firm, namely, M/s Shree Maruti Courier.

(vi) The mobile phone of the petitioner was seized, and data was extracted under the certification of a digital forensic examiner. From the WhatsApp

chats retrieved from the mobile phone of the petitioner, it appears that the petitioner used to have frequent conversations with Mac, the Nigerian national, regarding transactions involving contraband. The consignment numbers used to be communicated through WhatsApp and were found in the petitioner's WhatsApp chats. The petitioner's men and agents used to collect the consignments from the courier service.

(vii) Monetary transactions are also reflected in the WhatsApp chats, and messages relating to the modus operandi could also be seen from the chats, which clearly indicates the serious complicity and involvement of the petitioner with Mac, the Nigerian national, and Sandeep Kumar, the Delhi-based operator. It clearly establishes that there was a well-thought-out, conscious and calculated endeavour on the part of the petitioner in dealing with and trafficking contraband.

(viii) It appears that the petitioner used to work in connivance with Mac and Sandeep Kumar. It was the petitioner who divulged the name of the Nigerian lady who was to arrive by an Air India flight, from whom 131.40 grams of cocaine was recovered, which she was carrying in a surreptitious manner by concealing the same in her rectum. She confirmed that although she did not know who Majid Ali was, the said consignment was to be delivered to a carrier of the petitioner, Majid Ali. From the materials collected during the course of investigation, it is evident that the petitioner is not only connected with the conspiracy to commit such offence but is also connected with the commission of the substantive offence. As such, the rigours of Section 37 of the NDPS Act are attracted.

Learned Advocate appearing on behalf of the DRI opposed the bail application and, in order to fortify the aforesaid arguments, relied upon the judgment in *Ashish v. State of Maharashtra, Special Leave to Appeal (Crl.) No. 526 of 2021*, wherein the Hon'ble Supreme Court was pleased to refuse anticipatory bail by relying upon the call detail records of the mobile phone belonging to the petitioner, which, according to the Hon'ble Court, reflected regular contact between the petitioner and the other co-accused persons.

On behalf of the DRI, reference was also made to Union of India through *Narcotics Control Bureau, Lucknow v. Md. Nawaz Khan, Criminal Appeal No. 1043 of 2021*, arising out of *SLP (Crl.) No. 1771 of 2021*, wherein the bail granted by the High Court was set aside by the Hon'ble Supreme Court. It was specifically observed by the Hon'ble Supreme Court that absence of possession of contraband on the person of the respondent does not absolve him from the level of scrutiny required under Section 37 of the NDPS Act.

Attention of the Court was drawn to another paragraph of the same judgment, wherein the Hon'ble Apex Court was pleased to observe that the respondent was travelling in the vehicle all the way from Dimapur, Nagaland, to Rampur, Uttar Pradesh, with the co-accused; the complaint reflected that the CDR analysis of the mobile number used by the respondent indicated that the respondent was in regular touch with the other accused persons who were known to him; the quantity of contraband found in the vehicle was of commercial quantity; and the contraband was concealed in the vehicle in which the respondent was travelling with the co-accused.

Relying on the oral and documentary evidences collected in course of investigation, DRI has prayed for rejecting the prayer for bail of the petitioner.

I have taken into account the submissions advanced on behalf of the petitioner as well as the prosecution/DRI. The main thrust of the contention of the petitioner was that he has been implicated only on the basis of statements under Section 67 of the NDPS Act, which were made by co-accused persons and are inadmissible in evidence. The only connecting materials relate to WhatsApp chats which do not have any certification under Section 65B of the Indian Evidence Act or Section 63 of the Bharatiya Sakshya Adhiniyam; the WhatsApp chats relate to banking transactions in the account of Sanu Khan (a co-accused who has been granted bail in another case); the mobile phone seized do not belong to the petitioner; communications in the WhatsApp chats refer to different individuals, and the same evidence is being used in both cases; the phone belongs to one Gaurav Gupta, who has been shielded by the prosecuting agency.

The prosecuting agency/DRI, on the other hand, has emphasized the factual matrix, particularly with regard to the recoveries made from the offices of the courier service, namely, M/s Shree Maruti Air Courier; the modus operandi of sending the contraband, namely, cocaine, concealed in soft toys; the information leading to the apprehension of the Nigerian lady (the other accused), from whom subsequent recoveries were made; and the materials retrieved from the mobile phone seized from the present petitioner.

The list of documents placed by the prosecution weighs heavily against the petitioner, which includes:

(i) Consignment No. 25035200224948 of M/s Shree Maruti Courier;

(ii) Consignment No. 25035200224979 of M/s Shree Maruti Courier;

(iii) The address at Beck Bagan, Kolkata – 700017, along with Phone No. 9163675198;

(iv) The bank receipts.

All the aforesaid information was available on and retrieved from the mobile handset recovered from the petitioner. The said mobile handset was bearing Phone No. 9163675198 and was constantly in touch with Mobile No. +234 8108148441.

Further, the additional materials reflect that the petitioner was in touch with Sandeep Kumar throughout the month of August 2025, including 18.08.2025 and 19.08.2025.

So far as the judgment in Bharat Chaudhary (supra), relied upon by the petitioner, is concerned, the same takes into account additional factors, particularly the chemical examiner's report and the absence of any quantitative analysis of the samples. The petitioner in the instant case do not dispute that the contraband was cocaine. As such, the said judgment is not applicable to the facts of the present case.

Having considered the materials collected by the investigating agency/prosecuting agency in respect of the commercial quantity of cocaine recovered in the instant case and the chain of events, including the modus operandi involved in procuring the contraband, I am of the view that the

petitioner has failed to overcome the rigours of Section 37 of the NDPS Act. As such, his prayer for bail is rejected.

Consequently, CRM (NDPS) 1363 of 2026 is dismissed.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order/judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)