

24. 11.07.2024  
Court  
No.28 (Tanmoy)

Allowed-in-part

IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1064 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Krishnaganj Police Station Case No. 486 of 2023** dated **02.12.2023** under Sections **21(c)/20(b)(A)** of the NDPS Act, 1985 and Section **25 (1-B) (a)** of the Arms Act. NDPS Case No. 85/2023.  
And

In the matter of: - **Bimal Biswas & Anr.**

Mr. Snehansu Majumder, Adv. ...petitioners.  
...for the petitioners.

Mr. Rudradipta Nandy, Ld. APP,  
Mr. Dipankar Mahata, Adv. ...for the State.

The petitioners say that they are in custody for about eight months. They have no connection with the contraband items that were allegedly seized from the house where they reside. The room, from which the contraband items were seized, was occupied by the son of the petitioners i.e. Raju. Raju is absconding. They should be released on bail.

Learned Additional Public Prosecutor, while opposing the prayer for bail, points out that 21 bottles of phensedyl syrup containing codeine mixture was seized from the house which belongs to the petitioner no.1. Therefore, the *prima facie* complicity of that petitioner in the alleged crime is obvious.

We have considered the rival contentions of the parties. In view of the restrictions in Section 37 of the Narcotic Drugs and

Psychotropic Substances Act, 1985, we are not inclined to allow the prayer for bail of the petitioner no.1.

The prayer for bail of the **petitioner no.1**, namely, **Bimal Biswas**, is **rejected**.

However, considering that the petitioner no.2, namely, Subhadra Biswas, is a lady and aged about 56 years and her possible extent of complicity in the alleged crime, and the fact that the house does not stand in her name, we are of the view that she has been able to rebut the presumption in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Also keeping in mind the lengthy detention she has already suffered, we are inclined to allow her prayer for bail.

Accordingly, we direct that the **petitioner no.2**, namely, **Subhadra Biswas**, shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (under NDPS Act), Nadia at Krishnagar, subject to condition that the petitioner no. 2 shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner no.2 fails to adhere to any of the conditions stipulated above without any justifiable cause, the trial Court shall be at liberty to cancel the bail of the petitioner no.2 in accordance with law without further reference to this Court.

The application for bail being CRM (NDPS) 1064 of 2024 is, accordingly disposed of.

Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

**(Arijit Banerjee, J.)**

**(Apurba Sinha Ray, J.)**