

**18.10.2024**

Ct.No. 8

Item No. 5

Nandy / Saswata

**Allowed**

**C.R.M. (NDPS) 1677 of 2024**

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 (Corresponding Section 439 of the Code of Criminal Procedure, 1973) in connection with Bagdah PS case no. 543/2023 dated 04.08.2023 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of : **Prahalad Haldar**

...petitioner

Mr. Shasanka Shekhar Saha

...For the petitioner

Mr. Antarikhya Basu

Ms. Nazmut Touhid

....For the State

1. The petitioner was apprehended with 64 bottles of phensedyl comprising of codeine phosphate mixture on 4th August 2023. The charge has been framed but the witness action has not been completed. The petitioner is in custody for about one year and two months.
2. Considering the quantity of contraband with which the petitioner was apprehended and that more than one year and two months have elapsed for commencing the witness action, we are inclined to enlarge the petitioner on bail, overruling the objection raised by the prosecution that the recovery is of commercial quantity and witness action has been fixed on 13th December 2024 and 16th December 2024 for examination of PW-1, PW-2 and PW-3

as we find that custodial interrogation is no more required at this stage.

3. We have also considered the petitioner's case in the light of Section 37 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 *vis-à-vis* the provisions of Article 21 of the Constitution of India as discussed in a very recent judgment of the Hon'ble Supreme Court in the case of ***Javed Gulam Nabi Shaikh versus State of Maharashtra and another*** reported in ***2024 SCC Online SC 1693***.
4. Having considered the fact that the petitioner was apprehended near the border and that there is likelihood of the petitioner absconding, we impose strict terms.
5. Under such circumstances, we allow the application for bail subject to fulfillment of the following conditions:
  - i. We direct the petitioner to be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local to the satisfaction of Learned Chief Judicial Magistrate, North 24 Parganas at Barasat.
  - ii. The petitioner shall attend each and every date of trial.
  - iii. The petitioner shall meet the Inspector-in-charge / Officer-in-Charge of the Bagdah Police Station on every alternate date and shall not leave the jurisdiction without specific intimation to the concerned Investigating Officer.

- iv. The petitioner shall not intimidate the witnesses and tamper with the evidence in any manner whatsoever.
  - v. In the event of non-compliance of any of the conditions enshrined above, the trial Court shall be at liberty to cancel the bail without further reference to this Court.
6. We, however, make it clear that the observations made are only prima facie. It is also needless to mention that this order shall not influence the trial in any manner whatsoever.
7. CRM (NDPS) 1677 of 2024 is, accordingly, disposed of.
8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Arindam Mukherjee, J.)**

**(Supratim Bhattacharya, J.)**