

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (NDPS) 141 of 2025

Ms. Ralte @ R. Lalroluahpuii

Vs.

Narcotic Control Bureau, Kolkata Zonal Unit

**Before: The Hon'ble Justice Arijit Banerjee
 &
 The Hon'ble Justice Apurba Sinha Ray**

For the Petitioner : Mr. Bhaskar Dev Konwar, Sr. Adv.,
Mr. Japneet Singh, Adv.
Mr. Sourjya Das, Adv.
Ms. Poulami Bhowmick, Adv.
Ms. Marry Zomuanpuii, Adv.
Mr. Sounak Sen, Adv.

For the NCB/UOI : Mr. Anil Kumar Gupta, Adv.
Mr. Sourav Sengupta, Adv.

CAV On : 24.03.2025

Judgment On : 28.03.2025

Apurba Sinha Ray, J. :-

1. The petitioner contends that a parcel containing commercial quantity of narcotics was seized at the Foreign Post Office at Kolkata where the petitioner's name appeared as the consignee. The consignor, who is from Netherland, is not known to the petitioner and there was never any

communication between them. It is also submitted that the petitioner is unaware of the person who sent the parcel and had no knowledge of its contraband contents. The parcel was opened in her absence by NCB personnel at the said post office who seized the alleged contraband articles on 04.04.2024. A search of the petitioner's Mizoram residence at Lunglei, Mizoram yielded nothing incriminating. The petitioner did not submit any KYC details or track the consignment via mobile or email. The NCB personnel primarily relies on her statement under Section 67 of the NDPS Act which is inadmissible as per judicial decision reported in **(2021) 4 SCC 1 (Tofan Singh Vs. State of Tamil Nadu)**. Moreover, there is no proper certification of inventory as per provision of Section 52A of NDPS Act. No samples or photographs were taken in presence of the Magistrate. No monetary transaction or bank statements of the petitioner have been linked to the parcel or any certificate taken by NCB in this regard under the Banker's Book Evidence Act. CDRs from Airtel and Vodafone were enclosed with the chargesheet, but the digital certification under Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam, 2023, in regard to HASH values, are missing in the chargesheet. The forensic report of the mobile of the petitioner sent to CFSL Hyderabad, was not submitted along with the chargesheet. The petitioner being a qualified nurse having no prior criminal antecedent is unlikely to reoffend and as such she may be enlarged on bail on any condition.

2. The learned counsel appearing for the NCB submits that on the basis of secret prior information, the NCB personnel visited Foreign Post office at

Kolkata on 04.04.2024. After recording such information in accordance with law and also after complying with all the necessary legal formalities and thereafter identified one parcel in the name of the petitioner. After opening the said parcel a huge quantity of contraband articles namely amphetamine weighing about 2.170 kgs was found along with kitchen appliances. The entire process was videographed and after examining the petitioner and also after complying all the relevant requirements under law, the NCB arrested the petitioner on 07.05.2024. The investigation discloses that the petitioner is a part of an international drug trafficking racket and the same was being monitored by some other accused persons from Netherland and Kenya. The mobile phone of the petitioner was forensically examined and the retrieved data which was previously deleted by petitioner from her mobile phone shows that the images of the relevant parcel were sent to the said mobile phone of the petitioner prior to arrival of the consignment. The mobile phone number of the petitioner was mentioned in the relevant parcel containing contraband articles. The case record contains sufficient incriminating materials against the petitioner. The other accused persons are absconding. Charges are yet to be framed and if the present petitioner is enlarged on bail the prosecution of persons involved in the international drug trafficking will suffer. In view of the decision of **Narcotics Control Bureau Vs. Kashif**, reported in **2024 SCC OnLine SC 3848**, the question of compliance under Section 52A of NDPS Act can be taken up during trial and not at the pre-trial stage. The disclosure statement of the petitioner shows her involvement

with the international drug trafficking and as such the NCB prays for rejection of the bail prayer.

3. After going through materials on record and also the case law of **Tofan Singh** (*supra*) it is found that the confessional statement of the accused under Section 67 of NDPS Act cannot be the sole ground of conviction of the accused. It is not correct to say that the prosecution case is entirely dependent upon the confessional statement of the present petitioner under Section 67 of NDPS Act as alleged. Even, if we do not consider such statements of the petitioner recorded at the instance of NCB personnel, we find that there are sufficient incriminating materials which prompt us to hold that the petitioner is to answer certain queries to rebut or discharge the reverse presumption. The parcel contained the name of the present petitioner. The said parcel also contained the phone number of the petitioner. The images of the parcel were sent to the mobile phone of the petitioner. If the said images were sent innocuously to the mobile phone of the petitioner why were such images deleted from her mobile phone. Moreover, all these facts prima facie show that she was conscious that one parcel was coming from outside India, and, therefore, she is under an obligation to discharge the onus at the time of trial that she was not aware of the contents of such parcel. There are specific hints that the present petitioner has relation with other accused persons who had recharged different mobile phone numbers of out station persons, including one Nigerian. As the case involves international drug trafficking angle the

investigation had certainly taken some time. However, it appears that though the contraband articles seized in the absence of the petitioner, the entire process of seizure was videographed.

4. However, as the materials on record show that even apart from the statement of the petitioner recorded under Section 67 of NDPS Act, there are other sufficient materials incriminating her and also the fact that some accused persons are still absconding and evading arrest, it is difficult to allow the petitioner's prayer at this stage.

5. Needless to mention that in case of **Md. Kasif's case (supra)** it has been categorically held by the Hon'ble Apex Court that all questions relating to compliance of section 52A can be taken up at the stage of trial. The relevant paragraph may be quoted hereunder:-

"39. The upshot of the above discussion may be summarized as under:

(i) The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

(iii) The purpose of insertion of Section 52A laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

(iv) Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

(vi) Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act.”

6. The case diary discloses receipt of certificate from the competent authority under Section 65B of Indian Evidence Act. However, the issues that the certificate containing HASH values was not furnished to the petitioner or the forensic report of the mobile phone of the petitioner as submitted by CFSL, Hyderabad, was not annexed with chargesheet, are to be taken up during trial. Therefore, considering all aspects of the matter we

are not inclined to allow the prayer for bail of the petitioner at this stage. However, the petitioner is in custody for quite some time, and hence we direct the Learned Trial Court to expedite the proceedings of the case against the petitioner by splitting up the record after taking steps against the absconding accused in accordance with law. The bail petition is rejected without any order as to costs.

7. CRM (NDPS) 141 of 2025 is accordingly dismissed.

8. The parties are to communicate this Judgment to the Learned Trial Court.

9. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

I Agree.

(APURBA SINHA RAY, J.)

(ARIJIT BANERJEE, J.)