

CRM (NDPS) 157 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **N 53 of 2021** arising out of **NCB Crime No. 12/NCB/KOL/2021** under Sections **8(C)** read with **Section 20(b)(ii)(C)** and **29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

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In the matter of : Swapan Biswas & Anr. Petitioners.

Mr. Angshuman Chakraborty,
Mr. S.S. Saha, ... For the Petitioners.

Mr. Himanshu De,
Mr. Rishav Kr. Thakur, ... For the NCB.

Order dictated by Arijit Banerjee, J.

1. Status report filed by the Narcotics Control Bureau (NCB) in Court today, be kept with the records.
2. We find from the report that 2 more witnesses remain to be examined by the prosecution. March 18, 2025, has been fixed as the next date by learned Trial Court.
3. Learned advocate for NCB says that 215 kgs. of Ganja was seized from the joint possession of the accused persons including these petitioners. Since the trial is coming to an end, at this stage, the prayer for bail should not be granted.
4. The petitioners say that they are in custody for close to 4 years. While rejecting their bail prayer on October 1, 2024, in CRM (NDPS) 1460 of 2024, this Court had directed the learned Trial Court to conclude the trial within 4 months from the date of communication of that order. The order was communicated on October 5, 2024. However, the trial has not concluded within the time period

indicated in the said order. Even February 21, 2025 was fixed as a date for recording evidence. No witness turned up on that date.

5. We have considered the facts and circumstances of the case. We are conscious that huge quantity of contraband items was seized from the joint possession of the accused persons. However, we also cannot overlook that the petitioners have been in judicial custody for about 4 years now. There was a positive direction for conclusion of the trial by the end of 2024. Today is February 26, 2025. The direction has not been followed.

6. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to allow the petitioners' prayer for bail.

7. Accordingly, we direct that the petitioners, namely, **Swapan Biswas** and **Sushanta Dey @ Rabi** shall be released on bail upon furnishing a bond of Rs. 25,000/ each with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court (under the NDPS Act), Barasat, 24-Parganas, subject to the condition that the petitioners shall remain within the jurisdiction of the Rajarhat Police Station and shall meet the Officer-in-Charge/Inspector-in-Charge of the Rajarhat Police Station, twice in a week until further orders.

8. The petitioners shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

9. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at

liberty to cancel the petitioners' bail in accordance with law without further reference to this court.

10.The application for bail is, accordingly, allowed.

11.All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)