

24.04.2025

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C.R.M. (NDPS) 336 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NDPS Case no. 191 of 2022 arising out of Kaliachak Police Station case no. 1335 of 2022 dated 19.11.2022 under Sections 379/411/413/414 of the Indian Penal Code, 1860 and Sections 21(c)/27A/29 of the NDPS Act, 1985.

And

In the matter of : **Amir Hamja**

.... Petitioner

Md. Wasim Akram

Ms. Sabrina Parvin

...for the Petitioner

Mr. Kaushik Kundu

Ms. Mamata Jana

...for the State

The report submitted by the State and the copy of the order passed by Apex court in Special Leave to Appeal (Criminal) no. 7376 of 2024 filed by the petitioner are taken on record.

This is renewal of bail prayer which was earlier rejected by this court on 19.1.2024. It is submitted that the petitioner in the meantime preferred Special Leave to Appeal before the Apex court which was also rejected but liberty was given to the petitioner to renew the prayer for bail after expiry of six months vide order dated 11.9.2024.

Petitioner further submits that he is in custody for about two years and seven months and that there is no chance of early disposal of the case and the delay in trial cannot be attributed to the petitioner and for which, he may be granted bail in any terms and conditions since his fundamental right

to speedy trial which has been guaranteed under the constitution of India shall override all other considerations.

Learned counsel for the State submits that in the present application, the petitioner has suppressed that he has moved the Special Leave to Appeal before the Apex Court. He further submits that out of seven witnesses, whom the prosecution proposed to examine, only two witnesses have been examined so far and five witnesses are yet to be examined. He further submits that 272 bottles of Phensedyl Syrup with 67 mobile phones were recovered from the possession of the petitioner and as such, he opposes the prayer for bail.

Having considered the facts and circumstances of the case and that the petitioner is in custody for about two years and seven months which is a considerable period for conclusion of trial staring from investigation and that the delay in trial cannot be attributed to the petitioner herein, as reflected from the order-sheet and that out of seven witnesses only two witnesses have been examined so far, though the charge has been framed about one year back and it is uncertain and unpredictable, when the examination of rest witnesses would be concluded and that fundamental right to speedy trial of the petitioner, has been curtailed due to prolonged incarceration specially in view of the fact that for timely disposal of the cases, special courts have been created under section 37 of the Act, the prayer for bail made by the petitioner is allowed.

Accordingly, the petitioner namely, **Amir Hamja** shall be released on bail upon furnishing a bond of Rs. 20,000/- with two registered sureties of Rs. 10000/- each, of which one must be local, subject to the satisfaction of the learned Chief Judicial Magistrate, Malda and also on condition that the accused person shall not mis-use the liberty granted by this Court and he shall not tamper with any evidence orally or documentary during the trial. He shall not absent himself on any day during trial and shall not commit any offence while on bail. He shall give him mobile phone number to the local police station and shall not change it without prior permission of the trial court and he shall not in any manner try to delay the trial. The petitioner shall not leave the jurisdiction of court without taking leave from the court below. The court below will be at liberty to cancel the bail in the event of violation of any of the conditions without making any reference to this court.

Be it mentioned, that anything said herein shall not be construed as an expression of opinion on the merit of the case.

Accordingly, CRM (NDPS) 336 of 2025 is disposed of.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)