

10.04.2025

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C.R.M. (NDPS) 346 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NCB Crime no. 03/NCB/KOL/2023 dated 6.7.2023 corresponding to T.R. case no. 01 of 2023 under Sections 8(C)/20(b)(ii)(C)/29/35/54 of the NDPS Act, 1985.

And

In the matter of : **Md. Safiq @ Md. Safik**

.... Petitioner.

Sk. Toslim Ali

...for the Petitioner

Mr. Kallol Kumar Basu

Mr. L. Vishal Kumar

...for the State.

Report submitted the NCB dated 27th March, 2025 is taken on record.

Petitioner is in custody for about two years and four months. Petitioner submitted that the co-accused person of this case namely, Santosh Sahoo @ Santosh Saho was granted bail by the Apex Court on 17.3.2025 observing that a case of bail is made out for the petitioner.

A Division Bench of this court, while considering the bail prayer of another co-accused namely, Sk. Rajesh granted bail with the observation that though commercial quantity of Ganja have been recovered from the accused person but solely on the touchstone of Article 21 of the Constitution of India, the prayer for bail made by the petitioner was granted.

A coordinate Bench of this court also granted bail to another co-accused namely, Md. Azam Quresi on the ground that out of six witnesses, only one witness has so far been

examined and there is hardly any chance of early conclusion of the trial.

Petitioner further submits that the present petitioner is almost on the same footing and accordingly, he is also entitled to be released on bail.

Learned counsel for the NCB placed the case diary and leaves the matter to the discretion of the court.

Having heard learned counsel appearing on behalf of both the parties, I find that right to speedy trial is a fundamental right of the petitioner guaranteed under Article 21 of the Constitution of India. The prolonged incarceration generally mitigates against said valuable right of the petitioner and as such, the conditional liberty must override the statutory embargo created under Section 37(1)(b) (ii) of the NDPS Act.

Considering his period of detention and in view of the fact that there is hardly any chance of early conclusion of the trial as various dates fixed for examination of witnesses have been wasted and only one witness out of six has been examined so far and that the co-accused persons have already been granted bail by this court and the Apex court on the ground of prolonged incarceration, the prayer for bail made by the petitioner is allowed.

Accordingly, the petitioner namely, **Md. Safiq @ Md. Safik** shall be released on bail upon furnishing a bond of Rs. 20,000/- with two registered sureties of Rs. 10,000/- of which

one must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah.

It is further ordered 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.

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) 346 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.)