

24.06.2025

Sl. no. 29

Ct. No. 29

P.M.

C.R.M. (NDPS) 356 OF 2025

In Re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 in connection with N.D.P.S. Case No. 10/2021 arising out of Kaliachak Police Station Case No. 56 of 2021 dated 12.01.2021 under Section 21(C) /29 of the NDPS Act.

And

In the matter of : **Amanu Sk @ Md Amanu Sekh**

.... Petitioner

Mr. Ayan Bhattacharjee Sr. Adv.,

Mr. Avinaba Patra,

Mr. Dipayan Kundu,

Mr. Suynayan Ghosh

.... For the petitioner

Mr. Avishek Sinha,

Mr. Sourat Nandy

... for the State

It is submitted by Mr. Bhattacharjee, on behalf of the petitioner that the seizure was made from open space which is not covered by any building and the materials in the Case Diary shows that while alleged recovery was made no independent witness was present, even none of the accused persons including the petitioner was found on the spot, when the alleged recovery was made. He further submits that 1.6 Kgs. of Heroin was allegedly recovered in this case and the petitioner is in custody for about one year and six months. He further submits that out of seven charge-sheeted witnesses only three could be examined so far.

Mr. Bhattacharjee, further referring the evidence of P.W. 1 and P.W. 3 pointed out that the place of occurrence has been shifted during evidence and he further submits that the prosecution witnesses admitted that they could not collect documents in support of ownership of the petitioner in connection with the cowshed, wherefrom the alleged recovery was made and it is also evident that Section 57 of the Act has not been complied with and he further submits that nobody knows when the trial would be concluded and as such he may be released on bail on any terms and conditions.

Mr. Bhattacharjee in this context relied upon a judgement of **Ram Singh Vs. Central Bureau of Narcotics reported in (2011) 11 Supreme Court Cases 347** to show that petitioner's conscious possession in the instant case could not be established.

Learned counsel appearing on behalf of the State submits that four other co-accused persons are still absconding and they have been declared as proclaimed offender. He further submits that so far, the presence of the independent witness at the time of seizure is concerned, it is apparent that the persons who were present in the spot were not willing to put signature as witness and he further submits that out of seven witnesses three witnesses have already been examined and examination of other witnesses would be completed shortly and accordingly he opposed the bail prayer.

I have considered the submissions made on behalf of both the parties. From the facts and circumstances of this case and materials so far collected during investigation, it appears that rigour of Section 37 of the NDPS Act clearly attracts in the present case.

The judgement relied upon by the petitioner is not in connection with any application under Section 37 of the NDPS Act and as such is not applicable in the present context.

Thus the prayer for bail stands rejected.

However, the Trial Court is requested to make every endeavour to conclude the trial preferably within a period of six months from the next date of hearing and if there be no substantial progress in trial during the period the petitioner will be at liberty to renew his bail prayer.

CRM (NDPS) 356 of 2025 stands disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)