

16.06.2025

SL No. 11

Dd

GA 7 of 2025

with

IA NO: CRAN/1/2025

In Re:- An application for admission of appeal under Section 372 Proviso of the Code of Criminal Procedure; (as amended up to date),/Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Union of India

..... appellant

Mr. Himangshu Dey, Senior Advocate

Mr. Moyukh Mukherjee, Advocate

...for the appellant

Mr. Subhamoy Bhattacharya, Advocate

Mr. Shankar Mukherjee, Advocate

Mr. Shibam Banerjee, Advocate

...for the opposite party

1. Report as called for by the order dated June 9, 2025 filed in Court be taken on record.
2. Narcotic Control Bureau seeks to prefer an appeal against a judgment and order dated June 7, 2024 of acquittal passed by the learned Special Court, NDPS, 6th Court, Barasat.
3. Under Section 378(3) of the Criminal Procedure Code, Narcotic Control Bureau was required to apply for leave to appeal. Narcotic Control Bureau did not do so. Narcotic Control Bureau proceeded to file a Government appeal without applying for and obtaining an order under Section 378(3) of the Code of Criminal Procedure corresponding to Section 419(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
4. This was initially pointed out by us on May 19, 2025 upon such point being taken on behalf of the respondent. We called for a report hoping and trusting that the Narcotic Control Bureau will identify the mistake and take suitable corrective measures.

5. Narcotic Control Bureau submitted a report pursuant to an order dated May 19, 2025 without identifying the mistake and taking appropriate corrective measures with regard thereto. We, therefore, by our order dated June 9, 2025 called upon the Narcotic Control Bureau to submit a fresh report. This time, Narcotic Control Bureau by the report identifies that it did not obtain appropriate leave under Section 378(3) of the Code of Criminal Procedure Code corresponding to 419(3) of the BNSS, 2023.
6. On June 9, 2025, we repeatedly drew the attention of the learned counsel appearing for the Narcotic Control Bureau that appropriate leave under the provisions of the Criminal Procedure Code corresponding to Bharatiya Nagarik Suraksha Sanhita, 2023 was not obtained by the Narcotic Control Bureau to file a Government appeal.
7. Today learned senior advocate appearing for the Narcotic Control Bureau seeks leave to withdraw GA7 of 2025 along with connected applications.
8. In view of the conduct of Narcotic Control Bureau, as noted above, granting unconditional leave to withdraw, as prayed for, will not suffice interest of justice. Narcotic Control Bureau must be put on terms.
9. Narcotic Control Bureau will pay costs assessed at Rs.1,00,000/- to the West Bengal State Legal Services Authority, Kolkata within 7 days from date. Narcotic Control Bureau will recover such costs from its personnel who are involved in the entirety of process of making and filing the Government appeal.
10. GA 7 of 2025 along with connected applications are dismissed as withdrawn, as prayed for.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)