

26.06.2025
Item no. 31.
Ct. No. 29
BD.
(ALLOWED)

C.R.M. (NDPS) 426 of 2025

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kaliachak Police Station Case No. 98 of 2025 dated 23/01/2025 under sections 21(C)/27A/29 of the NDPS Act, 1985 and Section 25(1-B(a)/27/35 of the Arms Act.

In the matter of : **Chiranjit Mandal** Petitioner.

Mr. Arup Kumar Bhowmick
Mr. Amitabha Karmakar ...for the Petitioner.

Mr. Antarikhya Basu
Mr. Prakash Mishra ... for the State.

Petitioner submits that 130 bottles of cough syrup containing codeine phosphate was allegedly recovered from the possession of the co-accused Arun Mandal and Barun Mandal, but nothing was recovered from his possession and the petitioner's name transpired from the co-accused statement. In fact the petitioner was shown as an arrested person while he was in custody in connection with another case initiated under section 307 of the Indian Penal Code. He further submits that he is in custody for about 129 days and since the co-accused statement has no evidentiary value in view of **Tufan Singh's Case** reported in **AIR 2020 SC 5592** and as such rigour of section 37 of NDPS Act, may not attract in the present case in respect of the present petitioner.

Therefore he may be released on bail on any terms and conditions.

Mr. Basu, learned counsel appearing on behalf of the State opposed the bail prayer made by the petitioner but in his usual fairness he submits that the petitioner Chiranjit Mandal, is not FIR named person and during investigation his name was disclosed from the statement of other co-accused. However, he had made telephonic conversation with another FIR named accused Subir Mandal, two times just few hours before the raid was conducted against them. He further submits that the petitioner has made telephonic conversation with the accused person as per CDR but it is true that prosecution could not collect transcription of CDR during investigation. Investigation is going on and accordingly he left the prayer for bail to the discretion of the Court.

Having considered the submissions made on behalf of the parties it appears that the name of the petitioner transpired from the co-accused statement and even after his arrest nothing was recovered from his possession. CDR containing call details in connection with the petitioner with the accused persons, though raises a suspicion but in the absence of transcription of the CDR, such suspicion cannot be stated as grave suspicion in order to attract the rigour of section 37 of the NDPS Act.

Considering the aforesaid facts and circumstances of the case the prayer for bail made by the petitioner is allowed.

Accordingly, the petitioner namely, **Chiranjit Mandal**, shall find bail of Rs. 20,000/- with two registered sureties of Rs. 10,000/- each, one of which must be local, subject to the satisfaction of learned Chief Judicial Magistrate, Malda, and also on condition that the petitioner shall not leave the geographical limit of the district Malda, without the leave of the trial court, and shall report to the Officer-in-Charge, Kaliachak, Police Station, Malda, once in a week until further order.

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 his cell 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 the trial court without taking leave from the Court below. In case of violation of any of the conditions the trial Court will be at liberty to cancel the bail without making any further reference to this Court.

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

This application for bail being CRM (NDPS) 426 of 2025 is, thus, allowed.

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.)