

C.R.M. (NDPS) 444 of 2025

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Special Case No. 10/2018 arising out of NCB Crime No. 38/2018 dated 04.08.2018 under Sections 15 (C), 29 of the NDPS Act, 1985.

And

In the matter of : **Jiaul Hoque & Anr.**

.... Petitioner

Mr. N. Ghosh

Ms. N. Mukhopadhyay

...for the Petitioner

Ms. Manju Agarwal

Mr. Sourav Sengupta

...for the Union of India

It is submitted on behalf of the petitioners that the petitioners are in custody for about seven years two months and eighteen days. Prosecution has allegedly recovered 420 kgs of poppy straw from the house of the petitioners, though no videography was done. He further submits that, the restrictions imposed under Section 37 of the NDPS Act is not applicable to the petitioners in view of the allegation made against him in the instant proceeding.

He further pointed out that this Court by an order dated 30th August, 2024 made a specific direction to the Trial Court to conclude examination of the accused person by 31st August, 2024 and to deliver judgment by the end of September, 2024 considering the fact that the petitioners are in custody for more than six years.

He further submits that the said order was duly communicated to the Trial Court which is reflected from order dated 31st August, 2024 and on that day examination of

accused under Section 313 was completed and the next date that is 13.19.2024 was fixed for hearing argument. It is further submitted that since then the case is pending for hearing argument and delivery of judgment for last about eight months. He further submits that nobody knows when the judgment will be delivered by the trial Court and, as such, they may be granted interim bail on any terms and conditions.

Learned counsel appearing on behalf of the NCB pointed out the order dated 5th December, 2024 and contended that the delay can also be attributed to the defence counsel for not concluding the trial in time.

Having considered the submissions made on behalf of the learned counsel appearing on behalf of the petitioners and the NCB and that the petitioners are in custody for more than seven years and that in spite of examination of accused persons under Section 313 eight months back but still the case is pending for hearing argument and delivery of judgment the prayer for bail made on behalf of the petitioners is allowed only on the touchstone of Article 21 of the Constitution of India.

Accordingly, the petitioners namely, **Jiaul Hoque & Laltu Sk** shall be released on interim bail upon furnishing a bond of Rs. 20,000/- each 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 till delivery of judgment and also on condition that the accused persons shall not mis-use the liberty granted by this Court and they shall not tamper with any evidence orally or

documentary during the trial. They shall not absent themselves on any day during trial and shall not commit any offence while on bail. They shall give their mobile phones number to the local police station and shall not change it without prior permission of the trial court and they shall not in any manner try to delay the trial. The petitioners shall not leave the geographical limits of District of Malda without taking leave from the court below and shall report to the Investigation Officer, Baishnabnagar Police Station once in a week till delivery of judgment. 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) 444 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.)