

07.08.2025
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SB
Rejected

C.R.M. (NDPS) 709 of 2025

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS case no. 62 of 2024 arising out of Bhimpur Police Station case no. 190 of 2024 dated 14.7.2024 under Sections 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of : **Sushel Kumar @ Sushil Kumar**
.... **Petitioner**

With

C.R.M. (NDPS) 663 of 2025

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS case no. 62 of 2024 arising out of Bhimpur Police Station case no. 190 of 2024 dated 14.7.2024 under Sections 21(c)/25/29 of the NDPS Act, 1985.

In the matter of : **Ratnesh Kumar**

.... **Petitioner**

With

C.R.M. (NDPS) 915 of 2025

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS case no. 62 of 2024 arising out of Bhimpur Police Station case no. 190 of 2024 dated 14.7.2024 under Sections 21(c)/25/29 of the NDPS Act, 1985.

In the matter of : **Ravi Kumar**

.... **Petitioner**

Mr. Soumyajit Das Mahapatra
Mr. Tapodip Guta

...for the Petitioner
In C.R.M. (NDPS) 709 of 2025

Mr. Arnab Chatterjee
Mr. Amanul Islam
Mr. Sourav Mukherjee

...for the Petitioner
In C.R.M. (NDPS) 663 of 2025

Mr. Dipanjan Chatterjee
 Mr. S. Majumder
 Ms. Kakan Das
 Ms. Rimpa Adhikari

...for the Petitioner
 In C.R.M. (NDPS) 915 of 2025

Mr. Partha Pratim Das
 Mr. Atalya Sinha

...for the State
 In CRM (NDPS)709 of 2025

Ms. Sujata Das
 Ms. Jonaki Saha

...for the State
 In CRM (NDPS) 663 of 2025

Mr. Subhomay Bhattacharya
 Ms. Ratna Ghosh

...for the State
 In CRM(NDPS) 915 of 2025

It is submitted on behalf of the petitioner in CRM (NDPS) 709 of 2025 that according to the prosecution case, the petitioner is the owner of the vehicle in question.

The prosecution case is that 20000 bottles of phensedyl cough syrup containing codeine phosphate was recovered from a truck wherefrom one Bapan and Rajib were apprehended.

Learned counsel for the petitioner submits that he does not have any connection with the alleged offence and he has been implicated on the basis of the call details record without having any transcription and as such, it does not have any basis at all and practically he did not have any knowledge about the alleged offence. In this context, he relied upon a judgment of the Apex court in **Biswanath Dey Vs. State of Assam** reported in **(2025) 3 SCC 241** and contended that he comes within the 4th category where the contraband is recovered from a third party of the vehicle without any

allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance. Accordingly, he ought not to have been charge-sheeted, though he is in custody since 26th October, 2024 and as such, he may be released on bail on any terms and conditions.

Learned counsel for the petitioner in CRM (NDPS) 663 of 2025 submits that he was arrested two months after the alleged occurrence describing him as second driver which is not true. He further submits that according to the prosecution case, he fled away from the spot riding a toto. However, he was found from Dankuni and not from his native place at Uttar Pradesh. In fact, apart from the co-accused statement, there is nothing incriminating against the said petitioner and he is in custody since 22nd September, 2024 and prosecution has implicated him only on the basis of the allegation that his mobile phone tower location matches with the spot, which does not have any basis since tower location covers almost 15 to 20 kilometres area and as such, he may be released on bail on any terms and conditions.

Learned counsel for the petitioner in CRM (NDPS) 915 of 2025 submits that he has been stated to be first driver and he allegedly drove the vehicle from Gurgaon to Sultanpur as per direction of the owner of the vehicle namely, Sushel Kumar which also does not have any basis and he was arrested on 22nd September, 2024 from Uttar Pradesh on the basis of co-accused statement which has got no evidentiary value in

terms of **Tufan Singh's** case reported in **AIR 2020 SC 5592**.

He also ought not to have been charge-sheeted by the police and he may be released on bail on any terms and conditions since no CDR was detected and also there is no allegation of money trailing against the petitioners. It is further submitted that the petitioner in CRM (NDPS) 709 of 2025, CRM (NDPS) 663 of 2025 and CRM (NDPS) 915 of 2025 have no criminal antecedents.

Learned counsel for the State in CRM (NDPS) 709 of 2025 submits that the CDR discloses that the petitioner had made several communications with the driver of the vehicle and there is no dispute that he is the owner of the vehicle in question and as such, there are sufficient reason to believe that he has direct involvement with the alleged offence. He further submits that the bail prayer of the said petitioner was rejected on 17th March, 2025 with the observation that the petitioner failed to overcome the restrictions imposed under Section 37 of the NDPS Act. In reply, learned counsel for the petitioner submits that at that time, the petitioner could not show his E-way challan before the court.

Learned counsel for the State in CRM (NDPS) 663 of 2025 submits that the petitioner has direct involvement with the alleged offence and in fact, he fled away from the spot when the recovery was made and he made continuous communication with the owner of the vehicle which establishes his prima facie involvement with the alleged

offence. he also relied upon the statement of the toto driver recorded under Section 164 of the Code during investigation.

Learned counsel for the State in CRM (NDPS) 915 of 2025 submits that the statement of the petitioner recorded during investigation reveals that the vehicle no. UP 82AT 7257 was driven by the petitioner from Gurgaon to Sultanpur as directed by the owner of the vehicle and as such, he has also involvement with the alleged offence and he further submits that it is a racket in which all the three petitioners are involved and commercial quantity of narcotic substance was recovered and investigation has already been culminated into a charge-sheet but charge has not yet been framed and the next date is fixed on 13th August, 2025 for framing of charge.

Having considered the submissions made on behalf of both the parties and on perusal of the materials available in the case diary including the charge-sheet, it appears that undisputedly the petitioner in CRM (NDPS) 709 of 2025 is the owner of the vehicle in question and CDR discloses that he made communication with the driver concerned and the petitioner of CRM (NDPS) 915 of 2025 was the first driver and according to the prosecution case, the petitioner in CRM (NDPS) 663 of 2025 is the second driver who allegedly fled away from the spot with the help of a toto and thereafter he was apprehended. Prosecution also collected CDR report and according to the prosecution case, tower location of mobile has matched with the spot and all the petitioners are resident of Uttar Pradesh. Considering the materials collected during

investigation, there are prima facie reason to believe that all the petitioners are guilty of committing the offence and as such, the rigour of Section 37 of the NDPS Act clearly attracts in respect of all the petitioners and therefore, the prayer for bail made by all the three petitioners is rejected.

However, the Trial court is requested to expedite the trial and to make every endeavour to conclude the trial as expeditiously as possible, keeping it in mind that the fundamental right to speedy trial has been guaranteed to the petitioners under Article 21 of the Constitution of India. Both the parties will communicate the order to the Trial court at once.

Accordingly, CRM (NDPS) 709 of 2025 with CRM (NDPS) 663 of 2025 with CRM (NDPS) 915 of 2025 are disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)