

07.08.2025

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SR

Allowed

**CRM (NDPS) 765 of 2025**

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Malda Police Station Case No.359 of 2020 dated 29.06.2020 presently under Sections 21(c), 29 of the NDPS Act, 1985.

And

In the matter of : **Abdul Motaleb Ali**

**.... Petitioner**

Mr. Sagar Saha

Ms. Nayana Mukhopadhyay

...for the Petitioner

Mr. Rana Mukherjee

Mr. Tirthanker Dhali

...for the State

Prosecution case is that the petitioner is the owner of the truck wherefrom 110 bottles of phensedyl syrup containing codeine phosphate was recovered. Prosecution further case is that he was absconded for a considerable period of time.

Learned counsel appearing on behalf of the petitioner submits that he was arrested on 2<sup>nd</sup> August, 2022 and since then he was in custody and the prosecution submitted charge-sheet against ten accused persons out of nine have already obtained bail. He further submits that this is his renewal of bail prayer and his earlier bail prayer was rejected on 1<sup>st</sup> May, 2024 when this Court made a specific direction to frame charge positively within two months from that date and upon framing charge to conclude the trial as expeditiously as possible without granting any unnecessary adjournment to either of the parties. He further submits

that in spite of such direction, the charge has not yet been framed and, as such, nobody knows when the trial would begin and conclude and considering his period of incarceration, he may be released on bail on any terms and conditions.

Learned counsel appearing on behalf of the State submits that delay in trial is not attributable to the State. Moreover, the petitioner earlier absconded for about two years and if he is released on bail, there is chance of his further abscondence, and as such, he opposed the bail prayer.

Having heard the learned counsel appearing on behalf of the petitioner and the State and also considering the period of incarceration suffered by the petitioner and that there is hardly any chance of conclusion of trial at an early date since the trial has not yet begun, the prayer for bail made by the petitioner is allowed only on the touchstone of Article 21 of the Constitution of India.

In such view of the matter, the petitioner, namely, **Abdul Motaleb Ali**, 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 District- Malda, without the leave of the learned trial court, and shall report to the Inspector-in-Charge/Officer-in-Charge, Malda Police Station, District –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.

Accordingly, CRM (NDPS) 725 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.)**