

31.07.2025

Item No.81

Ct.No.29

rc.

Allowed

C.R.M. (NDPS) 744 of 2025

In Re : An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with **Hili Police Station Case No.229 of 2023** dated 19.11.2023 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act, 1985.

And

In Re : **Rashu Sarkar @ Rasu Sarkar**

... Petitioner

Mr. Kaushik Choudhury

... for the Petitioner

It is submitted on behalf of the petitioner that nothing was recovered from the possession of the petitioner though immediate after arrest he was taken to police custody.

The prosecution case is that 50 bottles of cough syrup containing codeine phosphate was recovered from the possession of one Tapas Pal and the said Tapas Pal during custodial interrogation disclosed the name of Mahadev Sarkar and thereafter Mahadev Sarkar was arrested and Mahadev Sarkar disclosed the name of the present petitioner.

Learned counsel for the petitioner submits that investigation has already been culminated into a charge sheet and he voluntarily surrendered before the Court on May 05, 2025 and he is in custody for about 86 days. He further submits that the principal accused Tapas Pal and

already obtained bail from this Court and thereafter Mahadev Sarkar who was arrested on the basis of co-accused statement has also obtained bail from this Court. He is also on the same footing. He further submits that one accused is still absconding and as such there is hardly any possibility of framing charge at an early date and as such he may be released on bail on any terms and conditions.

Learned counsel on behalf of the State opposed the bail prayer. However, in his usual fairness he submits that though the petitioner was taken to police custody but nothing was recovered from his possession. He further submits that his anticipatory bail prayer was rejected by this Court on January 03, 2024 and he surrendered before the learned trial Court more than one year thereafter.

Having considered submission made on behalf of both the parties and that the investigation has already been ended in charge sheet and that due non-recovery of any contraband substance from the possession of the petitioner the rigor of Section 37 of the NDPS Act may not attract in respect of the present petitioner, the prayer for bail made by the petitioner is allowed.

Accordingly, the petitioner, namely, **Rashu Sarkar @ Rasu Sarkar** 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, Dakshin Dinajpur, and also on condition that the petitioner shall not leave the geographical limit of

District- Dakshin Dinajpur, without the leave of the learned trial court, and shall report to the Inspector-in-Charge/Officer-in-Charge, Hili Police Station, District – Dakshin Dinajpur, 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) 744 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.)