

05.08.2025
27
Bd.

C.R.M. (NDPS) 768 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. 57 of 2024 arising out of Kumarganj Police Station case no. 356 of 2024 dated 11.12.2024 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act, 1985.

And

In the matter of : **Mostafijur Sarkar**

.... Petitioner

Mr. Jagannath Ganguly

Mr. Tanmay Manna

...for the Petitioner

Mr. Md. Adil Badr, Jr. Adv.

Ms. Dhanasree Biswas

...for the State

Prosecution case is that 20 bottles of cough syrup was recovered from the possession of the present petitioner and the petitioner is in custody from 10th December, 2024.

Learned counsel for the petitioner submits that at the time of search and seizure, no gazetted officer was present and though BSF apprehended the petitioner at 12 noon on 10th December, 2024 but they handed over the petitioner to the local police station at 00.35 hrs. in the night and the petitioner was produced before the court on 11th December, 2024. He further submits that the prosecution did not explain as to why the BSF detained him in the camp for about 12 hrs. He further submits that investigation has already been culminated into a charge-sheet and though the charge was framed on 20th May, 2025 but evidence on behalf of the

prosecution has not yet been started and the next date for trial is fixed in the month of September, 2025.

Learned counsel for the State opposed the prayer for bail contending that the BSF camp situates at a distance of about 25 kilometres from the place where the petitioner was arrested and moreover, the local police station situates at a distance of about 17 kilometres from the BSF camp. He further submits that medical checkup of petitioner was done in the meantime which caused delay in handing over the petitioner by the BSF to the local police authorities. He further submits that the seizure list discloses that the gazetted officer was present when the search and seizure were made and the concerned motor vehicles particulars collected during investigation clearly depicts that the petitioner has direct involvement with the alleged offence and that he had attempted to smuggle the said phensidyl cough syrup containing codine phosphate to Bangladesh. He further submits that within 24 hrs. of arrest, the petitioner was produced before the Trial court and as such, there was no violation of Article 22 of the Constitution of India.

Having considered the submissions made on behalf of both the parties, it appears that the commercial quantity of narcotic substance was recovered from the possession of the present petitioner and therefore, the rigour of Section 37 of the NDPS Act clearly attracts in respect of the present petitioner in the instant case. Hence, the prayer for bail made by the petitioner is rejected.

However, the Trial court is requested to expedite the trial and to come to a logical conclusion at the earliest. Both the parties will communicate the order to the Trial court at once.

Accordingly, CRM (NDPS) 768 of 2025 is 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.)