

11.09.2025
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Rejected

C.R.M. (NDPS) 814 of 2025

In Re:- An application for Bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Bolpur Police Station case no. 399 of 2024 dated 1.10.2024 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act 1985 corresponding to C. Case no. 12 of 2024 which culminated into a charge-sheet being no. 106 of 2025 dated 25.3.2025 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.

And

In the matter of : **Ram Poddar & Ors.**

.... Petitioners

Mr. Manjit Singh, Sr. Adv.

Mr. Biswajit Mal

Mr. Arkaprobho Roy

Mr. Soujanya Pattanayak

...for the Petitioners

Mr. Rudradipta Nandy, Ld. APP

Mr. Sujan Chatterjee

...for the State

Prosecution case is that total 65 kgs. of ganja in 74 packets were recovered from the possession of the present three petitioners.

Being aggrieved by the said proceeding, Mr. Singh, learned counsel for the petitioners, in support of the petitioners' bail application, submits that seizure was made on 1st October, 2024 and it was sent for examination on 11th November, 2024 which a gap of about 40 days and it appears from the complaint that radish brown colour flower top of cannabis plant with flower and grain believed to be ganja was allegedly seized from the possession of the petitioners but the report of the forensic department states that greenish herbal material containing flowering, fruiting tops, seeds, leaves and

stalks were received as Exhibit A1 and Exhibit B1. In this context, Mr. Singh further submits that in terms of the definition of ganja under Section 2(iii), (b) of the NDPS Act, unless the flowering portion and fruiting tops are separated, it cannot be said that commercial quantity of narcotic substance was seized from the petitioners.

In this context, he relied upon the judgment of Bombay High Court in **Mohammad Jakir Nawab Ali Vs. State of Maharashtra reported in 2024 SCC online Bom 3198**. He further submits that all witnesses cited by the prosecution as appears from the charge-sheet, are police witnesses and it is curious enough that no independent witness has been cited in support of the alleged seizure. He further submits that arrest memo clearly discloses that there is a violation of Article 22 of the Constitution of India and in this context, he also submits that for the violation of Article 22(1), the petitioners are entitled to be released on bail and in this context, he relied upon the judgment of **Vihaan Kumar Vs. State of Haryana and another reported in (2025) 5 SCC 799**. He also relied upon the judgment of Kalu Sk. passed by this court in support of his contention, that no videography was done in connection with the present case. He further submits that the petitioners are in custody since 1st October, 2024 and the prosecution proposes to examine ten witnesses and out of which, they could examine so far only two witnesses and nobody knows when the trial would be concluded and

considering all these, the petitioners may be released on bail on any terms and conditions.

Learned counsel for the State opposes the bail prayer contending that much more than 20 kg of Ganja which is the commercial quantity of narcotic substance was recovered from the possession of the present three petitioners and as such anomaly shown in the description of substance in CFSL report has got no substance. The list of exhibits which was sent for examination, shows that only cannabis ganja as a sample was taken and it was sent for forensic examination which is marked as Exhibit A1 and Exhibit B1. He further submits that videography was done in connection with aforesaid search and seizure and in reply to the argument of the petitioners, that all witnesses are police personnel, Mr. Nandi submits it is the subject matter of trial and opposing petitioner's prayer for interim bail on the ground of improper arrest he also relied upon a judgment of this court passed in **CRM (NDPS) case no. 169 of 2025 (Azizul Sk. & Anr. Vs. State of West Bengal)**.

Having considered the submissions made on behalf of both the parties and also in view of the materials placed before me, it clearly appears that there are reasonable ground for believing that the petitioners are prima facie guilty of committing offence and for which, the rigour of Section 37 of the NDPS Act clearly attracts in respect of the present three petitioners and as such, the prayer for bail made by the present three petitioners is rejected.

However, the Trial court is requested to make every endeavour for expeditious disposal of the trial and to come to a logical conclusion at the earliest. Both the parties will communicate the order to the Trial court immediately.

Accordingly, CRM (NDPS) 814 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.)