

28.8.2025

akb

Sl. 33

Ct.29

Rejected

CRM (NDPS) No. 987 of 2025

In re: An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of the
Code of Criminal Procedure, 1973 filed in connection with the NSPS
Case No. 13 of 2025 arising out of Gangarampur Police Station Case
No. 135 of 2025 dated 06.03.2025 under Section
28/21(c)/22(c)/23(c)/27A/29 of the NDPS Act, 1985.

And

In re: Basudeb Ghosh

... petitioner

Mr. Sabyasachi Banerjee
Mr. Pawan Kumar Gupta
Mr. Shiladitya Barma
Ms. Priyanka Ghosh
Mr. Shuvann Dasgupta

...for the petitioner

Mr. Ranabir Ray Chowdhury
Mr. Debanshu Ghorai

...for the State

Mr. Banerjee, learned Counsel appearing on behalf of the
petitioner submits that initially a case was initiated alleging that 4950
bottles of cough syrup containing codeine phosphate was recovered
from the other accused persons and the name of the petitioner
transpired from the co-accused statement. No recovery was made in
that case from his possession, though his anticipatory bail prayer was
rejected by this High Court on 25th November, 2024, being CRM (A)
4088 of 2024. The petitioner assailed the said order before the Apex
Court and the Apex Court granted a stay not to arrest on 27th
January, 2025 and the said order is still in force in respect of said
proceeding. He further submits that as the prosecution could not
succeed in arresting the present petitioner, they lodged the instant
FIR, being Gangarampur Police Station Case No. 135 of 2025, where
again 125 bottles of phensedyl containing codeine phosphate were
recovered from one Haider and following his statement the present
petitioner Basudeb Ghosh was arrested on 28th March, 2025 and his

brother Prosenjit Ghosh was also arrested in connection with that case on 4th April, 2025 and one of his friend Papai Das was also arrested in Court premises on 1st April, 2025. Beside aforesaid FIR, one more FIR has also been lodged in connection with Patiram Police Station Case No. 63 of 2025 dated 18.03.2025, wherein 2054 bottles of cough syrup containing codeine phosphate were recovered and in connection with that case also petitioner has been made shown arrested on the basis of co-accused statement.

Relying upon an unreported decision in the case of ***P. Krishna Mohan Reddy Vs. The State of Andhra Pradesh, (SLP (Criminal) No. 7532 of 2025)*** the petitioner contended that the Court must not place blind reliance on statement about a person who is not FIR named without first seeing whether such statement maker is likely to be arrayed as an accused or not because it would lead to an absurd situation if such statement maker subsequently arrayed as an accused.

He further submits that the petitioner is in custody for about 167 days and even if there is any allegation on the part of the prosecution regarding phone call or regarding transfer of money such thing is quite natural because the other co-accused persons are his relatives and friend and as such the rigour of Section 37 of the NDPS Act does not attract in respect of the present petitioner and he may be released on bail on any terms and conditions.

Learned Counsel appearing on behalf of the State vehemently opposed the bail prayer contending that investigation is still in progress and the outcome of investigation done so far reveals that there was continuous phone call in between the present petitioner and

other co-accused persons. The statement of accounts collected by the Investigating Agency during investigation also makes out a prima facie case of illegal money trailing and it shows that co-accused Papai transferred unaccounted money in the account of petitioner Basudeb. The statements and other materials so far available during investigation prima facie suggest that the petitioner herein is directly involved with the alleged offence he runs a racket with the co-accused person in dealing narcotic substances and as such if he is released on bail there is every chance of his abscondence.

Having heard learned Counsel appearing on behalf of the petitioner and the State and also in view of the materials so far collected during investigation and that the investigation is still in progress, I find that the petitioner at this stage failed to overcome the restrictions mentioned in Section 37 of the NDPS Act and as such prayer for bail is considered and rejected.

The application, being CRM (NDPS) 987 of 2025 is accordingly 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.)