

Vacation
Bench
DL.247
16-10-2025
Ct. No.16
Saikat

CRM(NDPS)/1221/2025

**ENAMUL KABIR MONDAL @ JUEL
VS.
THE STATE OF WEST BENGAL**

In Re: Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita filed in connection with Palashipara P.S. Case No.403/2023 dated 12.12.2023 under Sections 18(b)/21(c)/29 of Narcotic Drug and Psychotropic Substances Act, 1985.

Mr. Sabir Ahmed, Adv.
Mr. Abdul Aziz Mondal, Adv.
Mr. Shraman Sarkar, Adv.
Mr. Dhiman Banerjee, Adv.

...For the Petitioner

Mr. Arijit Ganguly, Adv.
Mr. Dipankar Paramanick, Adv.

...For the State

1. The submission advanced before this Court on behalf of the petitioner that in course of the proceeding from evidence that has been recorded as made by the complainant himself is a clear violation of the statutory provisions are evident and for that reason the present petitioner is entitled to bail.
2. It is further submitted in this regard that the Hon'ble Supreme Court in **(2004) 12 SCC 266, Sarija Banu (A) Janarthani @ Janani & Anr. Vs. State Through Inspector of Police**, was pleased to allow the bail application considering that the statutory provision of compliance of section 42 of NDPS Act is mandatory.

3. Learned prosecution raises strong objection and draws the attention of this Court to the order of rejection passed a Division Bench in ***CRM (NDPS) 183 of 2025, Abdul Aziz Sk. vs. State of West Bengal***, when this point has never been raised.
4. Heard the submission of both the learned advocates appearing for the parties.
5. The accusation is of containing 30 kg. 640 gm. of black colour dried crude contraband narcotic substance and 2 kg. 430 gm. of black colour dried crude contraband narcotic substance to be derived from opium from the present petitioner.
6. In view of the rigours of section 37 of the NDPS Act in regard to the commercial quantity, which is the stringent provision and unless the court has reason to believe that the person is not guilty of the offence, the prayer of bail application will not be considered.
7. On perusal the evidence as adduced before the court by the complainant, it is clear that no independent witness was present on the spot in compliance of section 42 as well as section 50 of the NDPS Act. At the same time, the Court cannot be oblivious that out of 11 witnesses 7 witnesses have already been examined and rest are scheduled for taking evidence.
8. In view of the above facts and circumstances, since no proceeding for quashing of the charge-sheet has been filed by the petitioner taking this point, at this stage if any prayer is allowed this may cause delay in trial, which is almost on the verge of completion.

9. Accordingly, this Court is not inclined to accept the prayer of the petitioner.
10. Hence, the application being CRM(NDPS) 1215 of 2025 is dismissed.
11. However, it is made clear that the present petitioner is in custody for a considerable period and the learned trial court shall make all endeavour to dispose of the instant case, preferably within a period of one year without granting unnecessary adjournment to either of the parties.

[CHAITALI CHATTERJEE (DAS), J.]