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C.R.M. (NDPS) 1369 of 2025

In Re: An application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Lalgola Police Station Case No.237 of 2025 dated 20th March, 2025 under Sections 21(C) /29 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

Hasanuzzaman & Anr.
Versus
The State of West Bengal

Mr. Arnab Chatterjee
Mr. Avik Ghosh
Ms. Ankusha Ghosh.
...for the petitioners.

Mr. Madhusudan Sur
Mr. Samarjit Balial.
...for the State.

Petitioners allege that they have been implicated in connection with the instant case and is in custody for about 9 months and the accusations against the present petitioners relate to joint recovery of 291 grams of heroin. The investigation of the case has been concluded and the charge-sheet has been submitted before the jurisdictional court. According to the learned advocate appearing for the petitioners the first sample which was sent before the chemical examiner opined that the contraband so seized did not respond and the opinion of the Government of West Bengal State Drugs Control and Research Laboratory were to the extent that the sample do not contain heroin and do not come under the purview of NDPS Act.

The investigating officer of the case on 08.09.2025 thereafter prayed for sending the sample to CFSL, Calcutta for examination and report. The same was allowed by the learned special court under NDPS Act, Berhampore, Murshidabad. The report of the CFSL, Calcutta, however, states that the sample which was sent contents Diacetylmorphine (heroin) along with other contraband which falls within the ambit of NDPS Act.

Mr. Sur, learned advocate appearing for the State submits that the contraband so seized is of commercial quantity and the findings of the CFSL do confirm the seizure.

Learned advocate for the petitioners has relied upon the judgment of the Hon'ble Apex Court in **Sami Ullaha vs. Superintendent, Narcotic Central Bureau** reported in **(2008) 16 SCC 471** wherein in a similar set of circumstances the Hon'ble Apex Court was pleased to arrive at a finding that the effect of a contradictory report must be gone into at the stage of trial and a person is entitled to have his liberty protected under Article 21 of the Constitution of India. Additionally, it has been stated that when two views are possible, the view which leans in favour of an accused must be favoured.

Having regard to the dictum of the Hon'ble Apex Court and the fact which is disturbing in this case that on 08.09.2025 when the hearing took place before the learned special for sending the sample to the CFSL, Calcutta after receipt of the initial report from the State Laboratory which did not confirm the contraband, no audience was provided to the present petitioners.

Having considered the overall circumstances in this case, I am of the opinion that the provision of Section 37 of the NDPS Act is diluted. As such, the prayer for bail of the petitioners is allowed.

Accordingly, the petitioners, namely, Hasanuzzaman and Tohidul Islam shall be released on bail upon furnishing bond of Rs.20,000/- (Rupees Twenty Thousand only) each with two sureties of Rs.10,000/- each, one of whom must be local to the satisfaction of the learned Judge, Special Court under NDSP Act, Berhampore, Murshidabad. If on bail, the petitioners shall be physically present on each and every date fixed by the learned trial court and shall not leave the jurisdiction of the district of Murshidabad without the prior permission of the learned special court.

Accordingly, CRM (NDPS) 1369 of 2025 is allowed.

Case diary be returned to the learned advocate appearing for the State.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)