

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**CRM (NDPS) 1696 of 2024
Asha Malakar
Vs.
Union of India
with
CRM (NDPS) 1861 of 2024
Probha Mandal
Vs.
Union of India**

For the Petitioner in
CRM (NDPS) 1696/2024

Mr. Safdar Azam,
: Mr. Shirsha Dasgupta, Advocates

For the Petitioner in
CRM (NDPS) 1861/2024

Mr. Jaydeep Biswas,
: Mr. Ashok Das,
Ms. Hasi Jana, Advocates

For the NCB in
CRM (NDPS) 1696/2024

Mr. Gauranga Das,
Mr. Uttam Basak, Advocates

For the NCB in
CRM (NDPS) 1861/2024

Mr. Kallol Kumar Bose,
Mr. Priyankar Ganguly, Advocates

Heard on & Judgment on : February 26, 2025

DEBANGSU BASAK, J.

In Re : CRM (NDPS) 1696 of 2024

1. Petitioner prays for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha

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Sanhita, 2023 in connection with NCB Crime No.30/NCB/KOL/2023 under Sections 8(c) read with Section 20(b)(ii)(C) and Section 29 of the NDPS Act, 1985.

2. Learned advocate appearing for the petitioner in CRM (NDPS) 1696 of 2024 submits that his client is not willing to press the application.
3. We find from the records that, the application was filed on October 14, 2024 and was taken up for consideration by the co-ordinate Bench on October 18, 2024 and December 16, 2024 as well as before us on February 24, 2025. On February 24, 2025 prayer for adjournment was made on behalf of the petitioner and granted.
4. Applications for bail filed up to December 31, 2024 were assigned to this Bench by Hon'ble the Chief Justice in the month of February 2025. Filing subsequent to January 1, 2025 remains with the co-ordinate Bench where this application was pressed. Petitioner in CRM (NDPS) 1696 of 2024 is not assigning any reason as to why he was not pressing the application after the same was pressed before the co-ordinate Bench. This conduct of the petitioner permits an inference that the petitioner is indulging in Bench hunting.

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5. In such circumstances, we are not inclined to allow the petitioner to not press the application.
6. On merits, we find no reason to grant bail to the petitioner . this conduct of the petitioner in Bench hunting should be noted while further applications for bail by any Court.
7. In such circumstances, prayer for bail of the petitioner is rejected.
8. CRM (NDPS) 1696 of 2024 is dismissed.

In Re : CRM (NDPS) 1861 of 2024

9. Petitioner prays for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NCB Crime No.30/NCB/KOL/2023 under Sections 8(c) read with Section 20(b)(ii)(C) and Section 29 of the NDPS Act, 1985.
10. Learned advocate appearing for the petitioner submits that the petitioner is in custody for about 2 years. He submits that, the alleged seizure took place at Howrah Platform. The arrest was shown at Rajarhat, Newtown. He points out that the despite a subsisting direction made by the co-ordinate Bench requiring video footage of

the seizure at the level of a Deputy Superintendent of Police, in the present case, it was done at the level of a Sepoy.

11. Learned advocate for the petitioner relies upon **2023 SCC OnLine SC 1262 (Ranjan Kumar Chadha vs. State of Himachal Pradesh)** and submits that, guidelines issued there in paragraph 66 stood violated. He draws the attention of the Court to the complaint filed by the NCB (NDPS) before the jurisdictional Court and in particular to page 7 thereof which purported to be a notice under Section 50 of the NDPS Act, 1985. He submits that a co-accused was made a witness to such notice.
12. Learned advocate appearing for the NCB draws the attention of the Court to the materials on record. He submits that, commercial quantity of contraband was seized from the joint possession of the petitioner. He submits that inception was made at the Howrah Station platform. NCB complied with the requisite procedure. The accuseds were taken to the Kolkata zonal unit at Newtown where the process was completed. He refers to paragraph 132 of **Ranjan Kumar Chadha (supra)** and submits that, Section 50 of the Act of 1985 is not attracted in the facts of the present case.

13. Commercial quantity of contraband was recovered from the plastic trolley bag carried by the petitioner along with co-accused.
14. **Ranjan Kumar Chadha (supra)** was rendered in the context of a judgment of conviction. In the facts of the present case, the trial is yet to take place. At the trial, no doubt, the Court will consider the defense, if raised, as to whether Section 50 of the Act of 1985 applies or not.
15. Materials on record, at this stage do not allow a conclusive finding to be arrived at on the aspect of applicability of Section 50 of the Act of 1985 and to alleged non-compliance.
16. Video footage of the search and seizure exists. As to its sufficiency, it should be decided after affording the parties opportunity to lead evidence.
17. Chain of custody appears not to be broken. In any event such issue needs to be decided after affording the parties opportunity to adduce evidences at the trial.
18. Petitioner before us is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985.

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19. In such circumstances, We are not inclined to grant bail to the petitioner.

20. Prayer for bail of the petitioner is rejected.

21. CRM (NDPS) 1861 of 2024 is dismissed.

(Debangsu Basak, J.)

22. I agree.

(Md. Shabbar Rashidi, J.)

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