

26.02.2025
Item No.16
Court No. 26
CHC
Rejected

CRM (NDPS) 1969 of 2024

In re : An Application for **Bail** under Section 439 of the Code of Criminal Procedure, 1973 read with Section **483** of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Kaliachak** Police Station Case No. **965/2024** dated **26.06.2024** under Sections **21(C)/25/27A/29** of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : **Tufan Mandal**

... ..**Petitioner**

Mr. Arup Kumar Bhowmick, Advocate

... .. For the Petitioner

Mr. Saryati Dutta, Advocate

Ms. Rajashree Tah, Advocate

... ...For the State

1. Petitioner prays for bail on the ground that the petitioner was not produced within 24 hours from the date and time of arrest.
2. Learned Advocate for the petitioner submits that since the arrest was illegal the petitioner was entitled to bail. In support of such contention, he relies upon **2025 INSC 141 (Directorate of Enforcement versus Subhash Sharma)**.
3. Learned advocate appearing for the petitioner submits that, the petitioner was arrested by the Border Security Force (BSF) on June 26, 2024 at 03:25 hours. He was produced before the jurisdictional Court on June 27, 2024 at 11:25 hrs. He submits that, therefore, a period of excess of 24 hours went

by prior to the petitioner being produced before jurisdictional Court. Consequently, the arrest is illegal the petitioner should be granted bail on the basis of the ratio laid down in **Subhash Sharma (supra)**, petitioner is entitled to bail.

4. That apart, learned advocate for the petitioner submits that, the seizure memo does not contain the signature of the petitioner.
5. Learned advocate appearing for the State submits that, the petitioner was initially intercepted by the BSF. BSF made over the petitioner to police authorities on June 26, 2024 at 22:55 hrs. Petitioner was produced before the jurisdictional Court on June 27, 2024 at the first instance. According to him, there is no violation of the statutory provision requiring production of detained person within 24 hrs.
6. Commercial quantity of contraband was seized from the possession of the petitioner.
7. Petitioner was arrested by the BSF on June 26, 2024 at 03:25 hrs. Custody of the petitioner was made over by the BSF to the police authorities at 22:55 hrs on June 26, 2024.
8. When police got custody of the petitioner, the Court was closed. Police produced the petitioner before the jurisdictional Court on June 27, 2024 at the first instance.
9. In **Subhash Sharma (supra)** initially the Enforcement Directorate detained the accused for one day and thereafter handed over the accused to the police who took another day

to produce the accused before the jurisdictional Court. In such circumstances, the arrest was held to be illegal.

10. In the facts of the present case, petitioner was arrested by the B.S.F initially on June 26, 2024 at 03:25 hrs with the petitioner being rearrested by the police when custody of the petitioner was made over to the police at 22:55 hrs on June 26, 2024. On the next date, that is on June 27, 2024 petitioner was produced before the jurisdictional Court. In such factual matrix of the case, we are not in a position to arrive at a finding that, there is a breach of right of the petitioner to be produced before the jurisdictional Magistrate subsequent to his arrest. One needs to factor in the time taken for transportation of the accused from the place of his initial arrest to the police station and thereafter to Court.
11. In such circumstances, we are not inclined to grant bail to the petitioner.
12. Prayer for bail of the petitioner is **rejected**.
13. CRM(NDPS) 1969 of 2024 is **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)