

01.05.2025

Sl. No. 8

Court No.3

BM

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (NDPS) 83 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023

And

**In the matter of : NAZIM AHMED@NAZIM AHAMED AND
ANR**

... Petitioner

Mr. Hillol Saha Podder

... for the petitioners

Mr. Kallol Acharjee

Ms. Sukanya Adhikary

... for the State

1. The petitioners' prayer for bail in this case arises out of an order dated 20th September, 2024 passed by the learned Sessions Judge, Alipurduar (under NDPS Act) in connection with (NDPS) Case No.38/2024, rejecting the prayer for bail of the petitioners herein.

2. The petitioners' case is that they are in custody for about 321 days and though charge sheet has been submitted on 24.11.2024, till date charge has not been framed.

3. The State has placed the case diary from wherein it appears that the contraband in this case has been seized from the joint possession of two accused persons.

4. Learned counsel for the petitioners submits that there is non-compliance of Section 52(1) of the NDPS Act and thus, violation of Article 22(1) of the Constitution of India.

5. It appears from the memo of arrest that father of the accused petitioners have been informed in the present case but ground of arrest has prima facie not been informed. Considering the fact that charge sheet has been submitted in November, 2024 and till date the trial has not commenced and

also the period of long detention of the petitioners and the stage of trial the petitioners are entitled to bail.

6. Learned counsel for the petitioners has relied upon the judgment of a Co-ordinate Bench of this Court passed in ***Asidul Sk. @ Kalu Sk., in CRM (NDPS) 1806 of 2023*** dated 08.11.2023 wherein the Court considered the long detention of the accused and also the fact the trial has not commenced for a long period. The petitioners rely upon paragraph 3 and 5 of the said judgment.

“3.Considering the quantity of the contraband articles seized and that the charge sheet has already been submitted, we do not find that the detention of the petitioner is required any further at this stage for custodial interrogation.

5. The provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, according to us, in the facts and circumstances of the case has got whittled down.”

7. Accordingly, relying upon the judgement of the Hon’ble Supreme Court in ***Pankaj Bansal vs. Union of India & Ors. reported in 2024 (7) SCC 576, (Paragraphs 21,22,27,35,37,38,39,40), Vihaan Kumar vs. State of Haryana & Anr. reported in 2025 SCC OnLine SC 269, (paragraphs 21, 31 and 33), Directorate of Enforcement vs Subhash Sharma, reported in 2025 SCC OnLine SC 240, (Paragraphs 8 & 9)*** and the order of a Co-ordinate Bench in ***Ramkrishna vs. State of West Bengal in CRM (NDPS) 144 of 2025, (paragraphs 10 and 11)***, the petitioners herein namely Nazim Ahmed @ Nazim Ahamed and Saddam Hossain are entitled to bail.

8. The petitioners namely, Nazim Ahmed @ Nazim Ahamed and Saddam Hossain be released on bail upon furnishing bond of Rs.20,000/- each with two registered sureties of Rs.10,000/- **one of which must be local** to the satisfaction of the learned Session Judge, Alipurduar (under NDPS Act), on further condition that he shall attend court on each and every

date fixed during trial unless exempted and shall not tamper with any evidence and/or threaten any witness during pendency of the trial.

9. The petitioners shall not leave the jurisdiction of District Alipurduar without prior permission of the Learned Session Judge, Alipurduar (under NDPS Act), until further orders.

10. **The application for bail is accordingly disposed of.**

11. There will be no order as to costs.

12. All connected applications, if any, stand disposed of.

13. Interim order, if any, stands vacated.

14. Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Shampa Dutt (Paul), J.)