

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

25.04.2025
(ct. no.03)
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CRM (NDPS) 101 of 2025

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

And

In the matter of : Bimal Ghosh

.... Petitioner.

Mr. Hillol Saha Podder

... For the Petitioner

Mr. Kallol Acharjee

Mr. Kallol Nag

... for the State.

1. The prayer for bail in this case arises out of an order dated 16.11.2024 passed by the learned Judge Special, Special Court –cum-Additional Session Judge, 2nd Court, Siliguri in connection with C.R.(NDPS) Case No. 66 of 2024 thereby rejecting the prayer for bail of the petitioner.
2. It is the case of the petitioners' herein that he has been arrested on 31.8.2024 and since then he is in custody for about 240 days. Commercial quantity of Brown Sugar was recovered from the possession of the accused persons in this case (809 gms.).
3. The petitioner's case is that **charge sheet in the present case has been submitted along with a chemical examination report within the statutory period.**
4. The State has placed the case diary wherein it appears that the Investigating Officer has submitted charge sheet within

the statutory period along with the chemical examination report which is positive.

5. The petitioner's contention is now that he is entitled to bail as the arrest in the present case is not in accordance with law as at the time of arrest, the grounds of arrest was not intimated to him and thus there was violation of Section 52(1) of the NDPS Act and accordingly violation of Article 22(1) of the Constitution of India.
6. It appears from the memo of arrest that column-1(e) of memo of arrest has been left blank and as such it appears that a mandatory provision to be complied with by the arresting officer has not been complied with. The said conduct of the arresting officer is against the direction of this Court in its **order dated 12.4.2023** passed in CRM (NDPS) 260 of 2023 in the case of ***Jafar Ali vs State of West Bengal***.
7. It further appears that there is no endorsement showing that the accused/petitioner herein was informed about the grounds of arrest. It is apparent that no information as to the grounds of arrest of the accused/petitioner was intimated, as in the first place even the information of arrest was not given to the relative or friends of the petitioner arrested in this case (column 1(e) of memo of arrest being blank).
8. As such the arrest in the present case is thus prima facie not in accordance with law and there has been clear violation and non-compliance of the mandatory provisions relating to arrest.
9. Accordingly, relying upon the judgment 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 passed in *Ramkrishna vs. State of West Bengal in CRM (NDPS) 144 of 2025, (paragraphs 10 and 11)*, the petitioner herein namely, **Bimal Ghosh** is entitled to bail.

10. The petitioner namely **Bimal Ghosh** be released on bail upon furnishing bond of Rs.20,000/- with two registered sureties of Rs.10,000/- **one of which must be local** to the satisfaction of the learned Judge, Special Court, Siliguri on further condition that they 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.
11. **The petitioner shall not leave the jurisdiction of District Darjeeling without prior permission of the learned trial Court until further orders.**
12. **CRM (NDPS) 101 of 2025 stands disposed of.**
13. All connected application stand disposed of.
14. Interim order, if any, stands vacated.
15. Copy of this order be sent to the learned Trial Court for necessary compliance.
16. Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)