

24.04.2025

Sl. No. 3

Court No.3

BM

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

CRM(NDPS) 108 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 : Sahajan Miya @ Shahajahan
Miah & Anr.**

Mr. Sudip Guha

Mr. Sandip Guha Roy

Mr. Ananda Paul

Ms. Ankita Nag

.. for the petitioners

Mr. Niloy Chakraborty

Mr. Biswarup Roy

... for the State

1. The prayer for bail in the present case arises out of an order dated 04.01.2025 passed by the learned Additional Sessions Judge, 1st Court (NDPS), Cooch Behar, thereby rejecting the petitioners' prayer for bail, in connection with Sitai Police Station Case No.217 of 2024 dated 04.11.2024 under Section 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act and corresponding to NDPS case No.92 of 2024.

2. It is the case of the petitioners that they are in custody for 170 days and that there has been violation of mandatory provision of Section 52(1) of the NDPS Act.

3. The petitioners have relied upon the judgment of a ***Division Bench of this High Court passed on 18.08.2023 in CRM(NDPS) 569 of 2023, Saraswati Das vs. State of West Bengal***, wherein the court has categorically held that arrest in the said case was not in accordance with law.

4. The State has placed the case diary wherein it prima facie appears from the arrest cum inspection memo that the accuseds/petitioners were not informed about their grounds of arrest. There is no such endorsement in the arrest cum inspection memo. The seizure in this case has been made in the presence of two witnesses. Allegedly 29 bottle of phensedyl was recovered from the possession of the petitioners.

5. 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 Sahajan Miya @ Shahajahan Miah and Sahedul Haque Pramanik @ Sahidul Haque are entitled to bail.

6. The petitioners namely, Sahajan Miya @ Shahajahan Miah and Sahedul Haque Pramanik @ Sahidul Haque, 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 Additional Sessions

Judge, 1st Court(NDPS), Cooch Behar, 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 threatened any witness during pendency of the trial.

7. The petitioners shall not leave the jurisdiction of District Coochbehar without prior permission of the learned Additional Sessions Judge, 1st court (NDPS), Cooch Behar, until further orders.

8. The application for bail is accordingly disposed of.

9. There will be no order as to costs.

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

11. Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)