

28.04.2025

Sl. No. 5

Court No.3

BM

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

CRM(NDPS) 112 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 : Kamalesh Das

Mr. Ananda Paul

.. for the petitioners

Mr. Aditi Shankar Chakraborty

Mr. Kallol Nag

... for the State

1. The prayer for bail in the present case arises out of an order dated 18.12.2024 passed by the learned Judge, Special Court (under NDPS Act, 1985, Siliguri in connection with CR(NDPS) Case No.46 of 2024, thereby rejecting prayer for bail of the petitioner.

2. The petitioner's case is that he is in custody for last 290 days.

3. Charge sheet in the present case has been submitted along with FSL report on 09.10.2024 and charge has already been framed in the present case.

4. Learned counsel for the petitioner prays for bail on the ground that the arrest in this case is not in accordance with law and as such his right under Article 22(1) of the Constitution has been violated for

non-compliance of the mandatory provision of Section 52 (1) of the Cr.P.C.

5. The State has placed the case diary from wherein it appears that the present petitioner was arrested from spot and Phensedyl was recovered from the possession of the accused person. The memo of arrest shows that column no.1(e) of the memo of arrest is blank. The mandatory requirement of informing the family member or friend of the arrested person has not been complied with and it prima facie appears that the ground of arrest has also not been informed to the petitioner.

6. 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)** 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 petitioner herein namely Kamalesh Das is entitled to bail.

7. The petitioner namely, Kamalesh Das, shall 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(under NDPS Act), Siliguri, 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 threatened any witness during pendency of the trial.

8. The petitioner shall not leave the jurisdiction of District Darjeeling without prior permission of the learned Judge, Special Court (under NDPS Act, 1985, Siliguri), until further order.

9. The application for bail is accordingly disposed of.

10. There will be no order as to costs.

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

12. Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)