

28.04.2025

Sl. No. 7

Court No.3

BM

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

CRM(NDPS) 119 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 : Biplab Biswas

Mr. Subham Ghosh

Mr. Sudip Guha

Mr. Ananda Paul

.. for the petitioners

Mr. Sourav Ganguly

... for the State

1. The prayer for bail in the present case arises out of an order dated 08.11.2024 passed by the learned Judge, Special Court(under NDPS Act) 1st Court, Jalpaiguri, thereby rejecting the petitioner's prayer for bail, in connection with Dhupguri Police Station Case No.289 of 2024 dated 14.07.2024 under Section 21(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act and corresponding to NDPS case No.41 of 2024.

2. The petitioner's case is that he is **in custody since 15.06.2024** and bottles of

codeine phosphate have been recovered from his possession.

3. Charge sheet in the present case has been filed on 24.09.2024 but till date charge has not been framed.

4. It is further submitted that arrest in this case is not in accordance with law as the mandatory provision of Section 52(1) of the NDPS Act has not been complied with and as such there is violation of Article 22(1) of the Constitution of India.

5. It appears from the memo of arrest in respect of the accused petitioner that column No.1(e) is blank.

6. The memo of arrest does not show that the ground of arrest was informed to the petitioner or his member of family at the time of arrest and as such prima facie violation of the mandatory provision of Section 52(1) of the NDPS Act.

7. The State has placed the case diary wherein it appears from the arrest cum inspection memo that the accused/petitioner was not informed about his grounds of arrest.

8. 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 Biplab Biswas is entitled to bail.

9. The petitioner namely, Biplab Biswas, 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), 1st Court, Jalpaiguri, 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 threaten any witness during pendency of the trial.

10. The petitioner shall not leave the jurisdiction of District Jalpaiguri, Coochbehar (as the case is pending at Jalpaiguri and resident of Coochbehar) without prior permission of the learned Judge, Special Court (under NDPS Act), 1st Court, Jalpaiguri, until further order.

11. The application for bail is accordingly disposed of.

12. There will be no order as to costs.

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

14. Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)