

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

24.04.2025
(ct. no.03)
08
BR

CRM (NDPS) 125 of 2025

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

And

In the matter of : Mubarak Seikh @ Mobarak Seikh @ Pampu

.... Petitioner.

Mr. Sudip Guha,
Mr. Abhishek Singh

... For the Petitioner

Mr. Nilay Chakraborty, Ld. APP,
Mr. Tapan Bhattacharjee

... for the State.

1. The prayer for bail in this case arises out of an order dated 28.1.2025 passed by the learned Judge, Special Court, (under NDPS Act), Alipurduar, rejecting the petitioner's prayer for bail in connection with Birpara Police Station Case Number 61 of 2024 dated 6.4.2024 under Section 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act and corresponding to NDPS case no. 20 of 2024.
2. It is the case of the petitioner that he is **in custody for more than 382 days** and though charge sheet has been submitted within the statutory period along with FSL

report on 25.8.2024, the trial Court has still not framed the charge against the petitioner in the present case and as such trial has not commenced even after charge sheet being filed eight months back.

3. The State has placed the case diary. It appears from the seizure list that 17 nos. bottles of Chlorpheniramine Maleate and Codeine phosphate syrup and 28 nos. strips of Pyeevon Spas plus capsules were recovered from the possession of the accused/petitioner who it appears from the materials on record is a person with 50% disability. It is the case of the petitioner that mandatory provision of Section 52 (1) of NDPS Act has not been complied with in the present case by the arresting officer and as such there is violation of Article 22(1) of the Constitution of India.
4. It appears from the memo of arrest that the petitioner herein has not been informed about the ground of arrest. There is no such endorsement in the memo of arrest as required in view of the guidelines of the Hon'ble Supreme Court in several judgments.
5. 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 in ***Ramkrishna vs. State of West Bengal in CRM (NDPS) 144 of 2025, (paragraphs 10 and 11)***, the petitioner herein is entitled to bail.

6. The petitioner namely, Mubarak Seikh @ Mobarak Seikh@Pampu 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, NDPS Act, Alipurduar, 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 or threaten any witnesses during pendency of the trial.
7. The petitioner shall not leave the jurisdiction of district Alipurduar without prior permission of the learned Judge, Special Court, NDPS Act, Alipurduar until further orders.
8. In case the petitioner fails to comply with the said conditions, the learned trial Court shall be at liberty to proceed, in accordance with law without further reference to this Court.
9. **The application for bail being CRM (NDPS) 125 of 2025 is accordingly disposed of.**
10. All connected application stand disposed of.

- 11.** Interim order, if any, stands vacated.
- 12.** Copy of this order be sent to the learned Trial Court for necessary compliance.
- 13.** Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)