

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

22.04.2025
(ct. no.03)
22
BR

CRM (NDPS) 139 of 2025

In Re : An application for bail under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Raja Sharma and others

.... Petitioner.

Mr. Sourav Ganguly,
Mr. Gopal Roy,
Ms. Rishita Chakraborty

... For the Petitioners

Mr. Ujjwal Luksom

... for the State.

1. The prayer for bail in the present case arises out of an order dated 13.03.2025 passed by the learned Judge, Special Court 1st (under NDPS Act) at Jalpaiguri in connection with NDPS Case No. 30 of 2024 arising out of Bhorer Alo Police Station Case No. 81 of 2024 dated 8.5.2024 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act.
2. The prosecution case in short is that **on 8.5.2024** acting on source information, the accused/petitioners were detained by the complainant/arresting officer. On search, seizure and arrest, the following items were seized from the accused persons:-

*“(i) **From Raja Sharma (Exhibit A): One white plastic sack containing a brown carton box with 160 bottles***

of R. Kuff + Chloropheniramine Melate and Codeine Phosphate Syrup (100 ml each, Batch No. TBHW-0177, Mfg 02/23, Exp. 01/25, MRP Rs. 175 per bottle).

*(ii) **From Md. Chottu** (Exhibit B) : One while plastic sack containing a brown carton box with 97 bottles of Triprolidine Hydrochloride and Codeine Phosphate Cough Syrup (Phensedyl) (100 ml each, Batch No. PHD23143, Mfg 11/23, Exp.01/25, MRP Rs. 205.48/- per bottle).*

*(iii) **From mastan Mamum** (Exhibit C): One whkle plastic sack containing a brown carton box with 100 bottles of Triprli9dine Hydrochloride and Codeine Phosphate Cough Syrup (Phensedyl) (100 ml. each, Batch No. PHD24040, Mfg 01/24, Exp. 03/25, MRP Rs. 305.48/- per bottle).”*

- 3.** Since then the accused/petitioners are in custody (for almost one year). Charge sheet in the present case has been submitted on 31.10.2024 along with FSL report within the statutory period.
- 4.** The petitioners’ case is that they are in custody for more than 300 days. Supplementary affidavit has been filed on behalf of the petitioners’ stating that the mandatory provision of Section 52(1) of the NDPS Act has not been complied with and ground of arrest has not been informed to the accused persons and as such the petitioners’ right under Article 22(1) of the Constitution

of India has been violated (***Vihaan Kumar –vs- State of Haryana and anr. reported in 2025 SCC Online SC 269 (Para 31 & 33)***).

5. The State has placed the case diary and on perusal of the materials in the case diary which includes the memo of evidence, it appears that admittedly there has been non-compliance of mandatory provision of Section 52(1) of the NDPS Act thus violation of article 22(1) of the Constitution of India.
6. Accordingly relying upon the judgment of the Hon'ble Supreme Court in ***Vihaan Kumar –vs- State of Haryana and anr. reported in 2025 SCC Online SC 269 (Para 31 & 33) and order of Co-ordinate Bench Ramkrishna –vs- State of West Bengal (CRM (NDPS) No. 144 of 2025 (Para 10 & 11)***), the petitioners' herein are entitled to bail.
7. The petitioners' namely, Raja Sharma, Md. Chottu and Mastan Mamun shall 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 Judge, Special Court, NDPS Act, Jalpaiguri, on further condition that he shall attend Court each and every date fixed during trial unless exempted and shall not tamper with any evidence or threaten any witness during pendency of the trial.
8. The petitioners' shall not leave the jurisdiction of district Darjeeling and Jalpaiguri (being the residents of

Darjeeling and case pending at Jalpaiguri) without prior permission of the learned Special Court under NDPS Act at Jalpaiguri until further orders.

9. In case the petitioners fail to comply with the said conditions, the learned trial Court shall proceed against the petitioners in accordance with law without further reference to this Court.
- 10. The application for bail being CRM (NDPS) 139 of 2025 is accordingly disposed of.**
11. All connected application stand disposed of.
12. Interim order, if any, stands vacated.
13. Copy of this order be sent to the learned Trial Court for necessary compliance.
14. Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)