

21
02.07.2025
Ct.No.2
b.das
Rejected

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction

C.R.M. (NDPS) 248 of 2025

In Re : An application for bail under Section 483 of the BNSS, 2023 filed in connection with Dinhata P.S. Case No. 156 of 2025 dated 21.03.2025 under Section 21(C) of the NDPS Act.

And

In Re : **Ranjan Haq @ Haque & Anr** ... Petitioners.

Mr. Sourav Ganguly
Mr. Bibek Tarafder
Mr. Gopal Roy
Ms. R. Chakraborty ... for the Petitioners.

Mr. Abhijit Sarkar
Mr. Bhaskar Das ... for the State.

Heard learned counsels for the parties.

The petitioners are in custody for more than three months.

Learned counsel for the petitioners submits that the petitioners were in a vehicle when the alleged search and seizure were made. In terms of the mandate laid down under Section 42 of the NDPS Act, no police officer below the rank of Sub-Inspector could conduct the search and seizure.

Learned counsel for the State opposes the prayer.

I have considered the material on record. It is not in dispute that the search and seizure were made by an officer of the Assistant Sub-Inspector rank. Section 42 of the Act deals with search and seizure in a building, conveyance or a

private place. In such case a notification issued by the State of West Bengal being No.1573-Ex dated 5th November, 1985 empowers the officers not below the rank of Sub-Inspector to exercise powers under the said provision of law.

In the present case, the seizure list indicates that the search and seizure were made at Ghughumari at Nayarhat road which is a public place. Therefore Section 42 of the Act is not attracted herein, the seizure being effected under Section 43 of the Act. The notification also has not manner of application to the recovery under Section 43 of the Act.

Commercial quantity of contraband articles have been recovered from the 2nd petitioner. Both the petitioners were found to be travelling together in the same vehicle prior to the interception and arrest.

In view of the restriction laid down under Section 37 of the NDPS Act, prayer for bail is rejected at this stage.

The application for bail is thus disposed of.

Case Diary be returned.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)