

09.09.2025
Sl. no. 1
Ct. No. 3
P.M.
(Allowed)

**Calcutta High Court
In The Circuit Bench at Jalpaiguri**

C.R.M. (NDPS) 355 OF 2025

In Re: An application for post arrest bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Phansidewa Police Station Case No. 232 of 2025 dated 30.05.2025 under Section 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 corresponding to C.R. (NDPS) Case No. 71 of 2025 pending before the learned Special Judge (NDPS) under the Narcotic Drug and Psychotropic Substances Act, 1985.

-And-

In the matter of: Biswajit Mondal @ Biswajit Mandal
...Petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy
...for the Petitioner

Mr. Abhijit Sarkar,
Mr. Saikat Chatterjee
... for the State

1. I.O. is present in court. Let his personal appearance is dispensed with.
2. Report filed by the I.O. is taken on record.
3. Learned counsel for the petitioner submits that excepting telephonic conversation as reflected from the CDR there is no other evidence against the petitioner. Learned counsel submits that petitioner is in custody for the last seventy days.

4. Learned counsel for the State has opposed the bail application on the ground that there is a regular conversation between the petitioner and the main accused person from whom the contraband was recovered. Learned counsel for the State also submits that there are criminal antecedents of the present petitioner.
5. Learned counsel also states that charge sheet has not been filed.
6. It is a matter of record that the only incriminating material against the petitioner is disclosure of statement of co-accused of CDR showing the conversation between the petitioner and the co-accused. It is also pertinent to mention that the disclosure of statement of co-accused under Section 67 of the NDPS Act is not admissible per se in view of the decision of the Supreme Court in **Tofan Singh Vs State of Tamil Nadu** (2021) 4 SCC 1. In **Deepak Nagiya Vs State (NCT of Delhi) 2023** SCC Online Delhi 5641 it was inter alia held as under :

“24. Insofar as the CDRs are concerned, I am of the view that the evidentiary value of the same shall be seen at the stage of the trial and it cannot be a ground to deny anticipatory bail to the petitioner at this stage. I am supported in my view by the

judgment of the Supreme Court in State (by NCB) Bengaluru v. Pallulabid Ahmad Arimutta & Anr.: (2022) 12 SCC 633, the relevant paragraph of which reads as under:-

12. It has been held in clear terms in Tofan Singh v. State of T.N. (Tofan Singh v. State of T.N., (2021) 4 SCC 1: (2021) 2 SCC (Cri) 246), that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC Online Kar 3516], [Mohd. Afzal v. Union of India, 2020 SCC Online Kar 3433], (Munees Kavil Paramabath v. State, 2020 SCC Online Kar 3431). (Abu Thahir v. State, 2019 SCC Online Kar 3517), (Mohd. Afzal v. Union of India, 2020 SCC Online Kar 1294), (Munees Kavil Paramabath v. State of Karnataka, 2020 SCC Online Kar 3432 releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be

examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders"

(emphasis supplied)

25. Likewise, a Coordinate Bench of this Court in Phundreimayum Yas Khan v. State (NCT of Delhi): 2023 SCC Online Del 135 has observed that in the absence of any other incriminating material, the CAF/CDR details cannot be a ground to deny the bail. The relevant para reads as under:-

Existence of any conspiracy between the applicant and Sayed Javed Hussain based on the CDRS

a. It is stated by learned counsel for the Respondent that the call record details show that the applicant was in frequent contact with one Amarjit Singh Sandhu on 26.01.2021, i.e; the date when the Tramadol tablets were collected by the co-accused Sayed Javed Hussain. He further states that according to the CAF/CDR details, location of the co-accused Sayed Javed Hussain and the applicant is also found to be in Rajouri Garden on 26.01.2021.

b. In my view, in the absence of any financial dealings, any recovery of narcotic substance or psychotropic substance from the applicant or from the premises of the applicant and or at the behest of the

applicant, the fact that the CAF/CDR details show calls between the applicant and Amarjit Singh Sandhu and the applicant and Sayed Javed Hussain, cannot be a ground to deny him the bail in the present matter.

c. It is for the prosecution to establish the guilt, abetment, conspiracy of the applicant beyond a reasonable doubt which is not borne out from the CAF/CDR details.”

7. Thus taking into account the facts and circumstances of this case petitioner is admitted to bail upon furnishing a Bond of Rs. 10,000/- with two sureties, of which one must be local, to the satisfaction of the learned Special Judges, NDPS, Siliguri, subject to the condition that the petitioner shall attend the trial regularly and subject to the conditions as laid down under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita and on further condition not to threaten or intimidate witnesses and to attend the jurisdictional Court on dates fixed.

8. Accordingly, **C.R.M. (NDPS) 355 of 2025** stands **disposed of.**

9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dinesh Kumar Sharma, J.)