

27.04.2026

Item No.45

Ct.No.35

dc.

Rejected

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M. (NDPS) 751 of 2026

In Re : An Application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Purbasthali Police Station Case No. 365 of 2025 dated 06.12.2025 under Sections 20(b)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and under Sections 179/183/184 of the Motor Vehicles Act, 1988.

And

In Re : **Babli Mallick**

... Petitioner.

Mr. Soumyajit Das Mahapatra,
Mr. Palash Bapari,
Ms. Madhurai Sinha,
Ms. Upasana Banerjee

... For the Petitioner.

Mr. Anupam Das Adhikary,
Mr. Mainak Gupta

... For the State.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for 143 days and subject-matter of the case relates to alleged recovery of 82.982 kgs. of Ganja from joint possession of the petitioner and another. The main thrust of contention of the present petitioner is that the grounds of arrest which has been referred to do not contain the accusations so far as the subject-matter of the case is concerned thereby enabling the petitioner to present her case properly after she was arrested. It has also been contended that inspection memo and memorandum of arrest do not contain the signature of any lady police officer and as such, the seizure list having been subsequently prepared was an afterthought brainchild of the investigating agency

thereby regularising the illegality which was committed at the time of seizure.

Learned advocate for the petitioner has referred to Section 43(5) of the BNSS and submits that since the signature of a lady police officer is absent in the memorandum of arrest, the arrest *per se* is illegal and the petitioner is entitled to be released on bail. Learned advocate for the petitioner also intended to rely upon the Parliamentary Debates for incorporation of Section 43(5) of the BNSS.

Learned advocate for the petitioner has also relied upon the judgement of the Hon'ble Supreme Court in the case of *Vihaan Kumar Vs. State of Haryana & Anr.* arising out of Special Leave Petition (Crl.) No. 13320 of 2024.

Learned advocate appearing for the State, on the other hand, opposes the prayer for bail. Emphasis was laid on the seizure as also the initial information which was made after the seizure particularly the raiding team which was constituted prior to the interception having been made. The raiding team, according to the State, included two lady police personnel viz. Pinki Debnath, LC-2571 and Tagori Mondal, LC-3501. The seizure list also reflects their signatures. As such, according to the State, there has been no illegality committed and the seizure being of commercial quantity, it has been prayed for rejecting the prayer for bail of the petitioner.

Ordinarily in cases under the NDPS Act, an arrest is effected after the seizure takes place. The interception of the

contraband is the foundation for initiation of a criminal case under the provisions of NDPS Act. The background of the case reflects that on source information, the police authorities were working out, as such a team was framed prior to the interception being effected. Section 43(5) of the BNSS portrays a situation where the arrest is in course of an investigation and the name of the accused is known to the police authorities. Otherwise, in a given set of circumstances without naming the accused, it will not be possible for a Magistrate to issue warrant of arrest. The situations are completely different. As such, the application of Section 43(5) of the BNSS in the present set of circumstances do not apply. Petitioner could have made out a better case, if the seizure list was devoid of any presence of a lady police officer, but the same is not in the present case. So far as the signature of any lady police officer in the memorandum of arrest or inspection memo is concerned, the same is not a mandate of law. What is required is the signature of the investigating officer and the totality of the circumstances would reflect the presence of the investigating officer.

Learned advocate for the petitioner submits that seizure list witness was subsequent table work incorporating the names of lady police officer. If the seizure list was prepared subsequently, the memorandum of arrest and the inspection memo was also prepared subsequently. If lady police officers were to be incorporated, the same could have been done by the police officer at the police station itself. The genuinity of the documents, at this stage, obviously cannot

be called in question, neither the Court can consider the same. The petitioner by way of cross-examination and rebutting the chain of circumstances would obviously at the stage of trial be in position to elicit the truth which is being canvassed at this stage.

Having regard to the issues canvassed, *prima facie*, from the case diary, this Court is not convinced as the memorandum of arrest, inspection memo, seizure list and the grounds of arrest were handed over to the accused at the inception. Having considered the quantum of recovery of the contraband in the present case which is much more than the commercial quantity, I am of the opinion that the petitioner has failed to overcome the rigors of Section 37 of the NDPS Act. As such, at this stage, the prayer for bail of the petitioner is **rejected**.

The application for bail, being CRM (NDPS) 751 of 2026, is, thus, dismissed.

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

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

(Tirthankar Ghosh, J.)