

16.02.2026
Court No.35.
D/L.234
(Suman)
(Allowed)

CRM (NDPS) 1250 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Vijay Prakash Goel.

.....Petitioner.

Mr. Prabir Kumar Mitra, Sr. Adv,
Mr. Achin Jana
Ms. Shubwanita Ghosh
Mr. Prosenjit Ghosh
Ms. Chetna Rustagi
Mr. Debojyoti Kumar
.....for the Petitioner.

Mr. Rudradipta Nandy, Ld. APP
Ms. Manisha Sharma
Mr. Sarthak Mondal
.....for the State.

Petitioner was arrested in connection with the instant case on or about April, 2025 and since then he is in custody. The allegations made in the FIR were to the effect that from the shop of the petitioner namely, “Goel Medical Store” there were recoveries of 158.8 litres of codeine-mixed cough syrup and two packets of Pyeevon Capsules (Tramadol Mixture) and on demand the petitioner failed to produce any documents in support of the same.

Learned advocate appearing on behalf of the petitioner submits that the petitioner is a senior citizen who has been illegally detained on the accusation of having committed

offences under Sections 21(c)/25/29 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

Learned advocate for the petitioner has also relied upon documents to substantiate that the police authorities acted in a vindictive manner and on wild allegations arrested the petitioner and detained him in custody. Earlier the petitioner was also foisted with a criminal case of such nature and his shop was forcibly closed. Subsequently, the petitioner preferred a writ petition being WPA 23877 of 2024, wherein the police authorities submitted a report on or about 21.11.2024, and thereafter the shop premises were directed to be opened. Petitioner has relied upon the licence which has been issued by the appropriate authority and to that effect, it was submitted on his behalf that the petitioner never denied having a medicine shop in which he had been carrying out business for years together and the police authorities are bent upon to falsely implicate the petitioner with a criminal case, in order to stop his business for which they have repeatedly invoked the provisions of the NDPS Act.

Learned advocate for the State opposed the prayer for bail and submitted that a huge quantity of Codeine Mixture/Phensedyl cough syrup was recovered along with Tramadol Mixture Tablets. The police authorities have exercised all due caution and adhered to the provisions of law and as such, the provision of Section 37 of the NDPS Act is

attracted, so the prayer for bail of the petitioner should be rejected.

I have taken into account the submissions of both the parties along with the documents which have been relied upon by the State.

State has not been able to produce any document which would reflect that the petitioner was not carrying out business under valid licence issued by the Directorate of Drugs Control, Department of Health and Family Welfare, Government of West Bengal. Further no communication was made to the parent company/manufacturer regarding the batch numbers in respect of which the seizures has been made. Thirdly, the State has been unable to show that there is any ceiling limit for a medicine shop to store any quantity of cough syrup such as Phensedyl. This Court on an inspection of the available laws found that, in the State of Uttar Pradesh, the Food Safety and Drug Administration (FSDA) department has issued an office order for sale of such substances and also imposed a ceiling limit of codeine-based cough syrup which can be stored up to 1000 bottles of 100-ml each in respect of wholesale medicine shop and for retailers, the limit is of 100 bottles of 100 ml to be stored at any given time. The State of West Bengal could not produce any office order, notification, circular which deter any wholesaler or retailer from storage of such material which are cough syrup or any codeine based cough syrup.

There are provisions under the NDPS Act which do not restrict invoking the relevant laws in respect of offenders who under the garb of having license carries out illegal activity. Section 80 of the NDPS Act states as follows:

“Application of the Drugs and Cosmetics Act, 1940 not barred.— *The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 (23 of 1940) or the rules made thereunder.”*

But in order to make out a case under the NDPS Act, the prosecution should have materials to show illegal procurement, illegal sell, no entry in the register or non-maintenance of accounts in respect of such contraband.

State in this proceeding has only made out a case of seizure of contraband (i.e. cough syrup and Tramadol Mixture) in violation of the NDPS Act. But no case has been made out that such substances which have been seized were not for medicinal or scientific purposes. In spite of repeated opportunity provided no material could be produced to show that there is any ceiling limit of storage of a person having valid licence.

Having considered the same I am of the view that, the petitioner's further detention is unwarranted.

Accordingly, petitioner namely, **Vijay Prakash Goel** shall be released on bail upon furnishing bond of Rs. 20,000/- (Rupees Twenty Thousand only), with two sureties of Rs. 10,000 (Rupees Ten Thousand only) each, one of whom must

be local to the satisfaction of the Learned Special Court, under NDPS Act, Howrah.

If on bail, the petitioner shall be physically present on each and every date before the learned trial Court in seisin of the case and shall not leave the jurisdiction of District of Howrah without the prior permission of the learned Special Court.

Accordingly, the prayer for bail in CRM (NDPS) 1250 of 2025 is **allowed**.

All parties shall act in terms of server copy of the order 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.)