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C.R.M. (NDPS) 1658 of 2025

In Re: An application for post arrest bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Dalkhola Police Station Case No.278 of 2023 dated 30.11.2023 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

Manjoor Alam
Versus
The State of West Bengal

Mr. Subham Ghosh
Mr. Mayank Roy
Mr. Saswata Chatterjee.
...for the petitioner.
Mr. Saryati Datta
Mr. Sharequl Haque.
...for the State.

Learned advocate appearing for the petitioner submits that the petitioner's wife leased out the godown to another person but unfortunately petitioner has been implicated in connection with the instant case and the lessee from whom the seizure was effected has been left out by the investigating agency and the petitioner has been named in the charge-sheet for which he is in custody for more than 1 year 11 months. It has also been contended that the search and seizure was in contravention of the provisions of Section 42 of the NDPS Act and, as such, the petitioner is entitled to be released on bail. Further, in course of evidence of P.W.1 and P.W.2 none of the General Diary Entries were produced at the time of examination-in-chief and the Presiding Officer not being there presently there is no scope for the trial progressing in near future.

Learned advocate for the State opposes the prayer for bail, draws the attention of the Court to the seizure list wherein it reflects that the seizure was effected pursuant to General Diary Entry No.927, permission was sought for from the SDPO before conducting the seizure which is also available in the case diary. Reference in respect of the General Diary Entry has also been made. The recovery in the present case is about 17,000 bottles of phensedyl from a cold storage/ware house.

Learned advocate for the petitioner has relied upon the judgment of the Hon'ble Supreme Court reported in **2004 SCC Online SC 264 (Sarija Banu (A) Janarthani alias Janani and another Versus State through Inspector of Police)** wherein the learned advocate submits that for non-compliance of Section 42 the court is entitled to consider the issue at the time of consideration of bail. To that effect, attention of the Court has been drawn to paragraph 7 of the judgment which reads as follows:

“7. It is pertinent to note that in the bail application the appellants, it was alleged, that there was serious violation of [Section 42](#) of the NDPS Act. In the impugned order nothing is stated about the alleged violation of [Section 42](#), and it is observed that it was not necessary to consider such violation at this stage. The compliance of [Section 42](#) is mandatory and that is a relevant fact which should have engaged attention of the Court while considering the bail application. In the aforesaid circumstances having regard to the special facts of the case, we direct that the appellants 1 and 2 be released on bail on executing a bail bond for Rs. 50,000 each with two solvent sureties for the like amount to the satisfaction of the Special Judge, EC/NDPS, Madurai on the following conditions:

(1) The counsel for the appellants requested that the appellants may be allowed to stay outside the State of Tamil Nadu. We are not inclined to grant such a prayer as the respondents police authorities would not be able to ensure the timely presence of the appellants in Court;

(2) The appellants shall not leave jurisdiction of the District Court, Madurai and shall report before the Circle Inspector, Karuppayurani Police Station once in two weeks for 3 months, thereafter, once in a month.

(3) The appellants shall surrender their passport before the Court, if not already seized by the police.”

I have taken into account the fact that the trial of the case is in progress, the huge quantity of seizure which has been effected, the statement of the local witnesses regarding the petitioner being overall control of the said godown and the evidence of said witnesses are to be tested on dock.

The petitioner earlier applied for bail and contention in respect of the licence agreement were canvassed in CRM(DB) 912 of 2024 which was turned down. Petitioner has also approached the Hon’ble Apex Court earlier and Special Leave to Appeal (Crl.) Diary No(s).53065/2024 the prayer for bail was rejected.

Having considered the fact that earlier also the Hon’ble High Court and Supreme Court had the occasion to consider the case diary before rejecting the application for bail, at this stage, when the evidence has already commenced, I am not inclined to assess such issue.

Accordingly, the prayer for bail of the petitioner in CRM (NDPS) 1658 of 2025 is dismissed.

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)

