

**C. Case No. 8/2022**  
**CNR- WBBB01-000100-2022**  
**JO-WB 00052**

Order No. & Date  
04/ 04.05.2022

3 accused persons, namely, Paritosh Biswas, Barun Pal and Subrata Pal are produced from JC.

Ld. P.P. in-charge for the prosecution and Ld. Advocate for defence are present.

Bail petition filed by the Ld. Advocate for defence is taken up for hearing.

Heard both sides. Perused materials on record.

Ld. Advocate for defence prays for bail submitting that the instant case, the complainant did not comply the provision of 50 of the NDPS Act regarding search and seizure which is mandatory and thus the instant proceeding is liable to be vitiated and in such circumstances, accused persons are entitled to get bail in accordance with law. Beside that he also submits that the accused persons are languishing in jail for a considerable period since 18.03.2022, they are permanent residents having their family and as such he pays for bail on any condition having no chance of their absconding and tampering of prosecution witness.

Ld. P.P. in-charge opposes the submission of his counterpart and prays for rejection of bail since commercial quantum of ganja was recovered from the exclusive possession of the accused persons. Beside that he submits that mere non-compliance of provision u/s 50 of the NDPS Act regarding search and seizure, accused does not get bail and deserve to get bail due to fault of the I.O. and as such it can be considered at the time of trial after taking evidence. It is true that from the seizure list regarding seizure of ganja from the possession of the accused persons does not reflect presence of Gazetted Officer at the time of search and seizure. But, at the same time, the complaint submitted by Subhankar Banerjee, SI of Sainthia GRPS reflects that he searched and seized ganja in presence of RIP, Andal who is a Gazetted Officer. In such circumstances, mere omission of signature of the Gazetted Officer in the seizure list, I find the prayer of Ld. Advocate for Defence regarding granting bail shall not be considered when commercial quantum of ganja was recovered from the possession of the accused persons.

Accordingly, bail prayer is considered and rejected and they are remanded to JC till 18.05.2022.

Dictated & corrected by me.

Judge, Special Court under  
NDPS Act, 1st Court, Suri

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