

**TR Case No. 20 of 2024**

**Order No. 30 Dated: 15.01.2025**

As the record goes to show that today is fixed for passing order in respect of the application u/s. 497 of BNSS as filed by the accused Debabrata Das who has prayed for return of the seized materials/articles of this case under an interim order from this court on the grounds as stated therein.

The above prayer of return of the seized materials was earlier heard in the presence of both sides namely in the presence of Ld. Advocate appearing for the above named accused petitioner as well as in the presence of the Ld. Public Prosecutor who is representing State in this case and today was reserved for passing the said order after hearing the application on the said occasion.

The sum and substance of the contentions of the above named accused/petitioner as heard from his Ld. Advocate while he has prayed for return of the seized materials of this case under an interim order is that he is the lawful license holder to possess the seized materials and as such he is well empowered to deal with the seized materials which are manufactured drugs.

While making the above submission his Ld. Advocate further had submitted that the seized materials are purely manufactured drugs and the accused/petitioner had lawfully stored the said materials in the godown under proper license and as such there has not any violation on his part in respect of the license as given to him for dealing with the seized materials.

The Ld. Advocate for him while praying for the return of the seized materials further submitted that the seized materials do not at all contain any narcotic substance therein and he was thus merely dealing with the said materials under proper license and did ever he use the said material for any non-medicinal purposes.

Ld. Advocate further submitted while praying for the return of the seized materials that if there be any sort of violation on his part while dealing with the materials, the said violations may maximum be taken cognizance not under the NDPS Act but may be taken cognizance under the Drugs and Cosmetic Acts but he never has consciously dealt with the said materials for any non-medicinal purpose allowing the same to be used as narcotic substance.

Ld. Advocate further submitted that unless the said seized valuable articles are not returned back as early as possible to his custody, the viability or efficacy of the medicinal properties of the said materials (manufactured drug) which do have expiry date will ultimately expire and for that obvious reason, the accused/petitioner as a lawful owner the seized material would be hard hit financially for the additional reason that the efficacy of the said drugs in relation to the expiry date will not still survive up to the date and period of trial unless the said seized materials are timely restored back to his possession.

On the other hand, during hearing of the above petition the Ld. Public Prosecutor appearing on behalf of the prosecution vehemently raised objection against the above

prayer for return of the seized materials under interim order saying that the investigation is still going on and if the seized materials be directed to be returned at this stage to his possession, first of all the on going investigation will badly suffer. Ld. P.P. further submitted while raising objection against the above prayer for return of the seized materials that the sample as was taken from the seized materials were sent to the FSL for categorization and identification of the nature of the seized materials and the result of the said test in the laboratory (FSL) has tested positive as reported back with the test result confirming that the contents of the said seized materials undoubtedly contain the presence of narcotic substance beyond permissible limit.

Ld. P.P. further submitted while raising objection against the above prayer for return of the seized articles that the above named accused Debabrata Das by taking advantage of the license as was given to him by the licensing authority was practically doing illegal trafficking with the said seized materials in the name of using the same as manufactured drugs which as per laboratory test result do have containing narcotic substance beyond permissible limit and thus he was reportedly selling and supplying the said manufactured drugs for non-medicinal purposes.

The Ld. P.P further submitted during hearing while raising objection against the prayer for return of the seized materials that the investigation on other aspects is going on in order to find out as to who were manufacturing the seized materials containing narcotic substance beyond permissible limit and therefore if the seized materials at this stage are directed to be returned to this accused/petitioner, the investigation on that point to be investigated as to who were manufacturing the seized materials and who have had the nexus and dealing with such narcotic substance in the name of manufacture drugs will ultimately suffer and investigation will miserably fail in its proper progress.

Ld. P.P. further submitted while raising objection that since already the sample has tested positive confirming the presence of narcotic substance beyond permissible limit as such if the seized materials which contain narcotic substance beyond permissible limit are directed to be returned under interim order to this accused/petitioner as per his prayer, then there would be obvious chance and much more likelihood that the same be misused and abused as because as per his nature of prayer as indicated therein, he would not keep the seized material in safe custody, he would rather sell out the same.

Now, after hearing the matter as above this court today would pass the necessary order. The only broad question which is posed before this court is whether the seized materials at this stage of the proceeding be safely directed to be returned to this accused/petitioner as per his prayer. To answer this question as posed before the court, the court would like to consider the case of the prosecution as well as the case of the defence which is sought to be made out before this court on their behalf.

Admittedly, the case has been registered against the accused person of this case u/s. 21 of NDPS Act which relates to the offence against manufactured drugs. Since as per the prosecution case the sample has tested positive in the laboratory confirming the presence of narcotic substance beyond permissible limit in the seized materials as such the same should not be returned back to the above-named accused person as per his prayer who is

admittedly saying that he is the owner and possessor of the said materials. Another reason for refusing the prayer for interim return is that if the seized materials are returned to his custody, this court fully agrees with the view of the Ld. Prosecutor that there would be obvious chance that the seized materials which do contain narcotic substance beyond permissible limit would be misused and abused. Because of the reason, as I see that the nature of the prayer of the accused while he is praying for interim return of the seized material is that he would be further dealing with the materials as dealer. He would not keep them in safe custody.

On consideration of the above aspects and keeping in view of the stage of the investigation of the case, the prayer for interim return of the seized materials as filed by the accused Debabrota Das is rejected.

To date (16.01.2025) for hearing of the bail prayer of the concerned accused persons namely Papai Dhara, Rudal Singh and two others.

Dictated & Corrected by me,  
Special Judge,

Judge, Special Court under  
N.D.P.S Act, Howrah.