

Spl 98/2024
Present : Smt Sanghamitra Podder
Judge, Special Court,
3rd Court, Malda (JO Code-WB00855)

Order No. 15 dated 30-04-2025

Accused Rahamat Ali and Md. Kamal Hossain are produced through VC.

Bail petition filed on 23-04-2025 by accused persons is taken up for hearing.

Ld. Defence Counsel submits that this accused persons were arrested violating the provisions of Sec. 50 of Cr.P.C corresponding to Sec. 47 of BNSS, Article 21 and 22 of Constitution of India was not followed. He is ready to comply all the conditions imposed by this Court if enlarged on bail. So, the bail prayer should be allowed. Ld. Advocate relied upon the decisions reported in Kanishk Sinha and Another Vs State Of West Bengal and another decided on 27-02-2025, Vihaan Kumar Vs. State of Haryana and another decided on 07-02-2025, of Hon'ble High Court of Calcutta in Minu Das vs State of West Bengal and ors decide on 28-03-2025, CRM, (NDPS) 144 of 2025 decided on 08-04-2025, CBI Vs Rajnikant Ojha decided on 10-04-2025

Ld. P.P. raised vehement objection and submit that commercial quantity of contraband articles have been seized from the possession of the accused persons and the decisions relied upon by Ld. Advocate are not application to this case. Ld. Spl PP relied upon the decisions of Hon'ble Supreme court passed in Special Leave to Appeal no. 17132 of 2024 of Mihir Rajesh Shah vs. State of Maharashtra and others, Vihaan Kumar vs State of Hariyana and another decided on 07-02-2025.

Having heard both sides I perused the case record and considered the same.

I have gone through the decision relied upon Ld. Defence Counsel as well as Ld. Spl PP, I am of the consider view that the decision of Hon'ble Supreme court passed in Special Leave to Appeal no. 17132 of 2024 of Mihir Rajesh Shah vs. State of Maharashtra and others is more applicable to this case. It appears from the case record that caught red handed with 487 gram of brown sugar which tantamount to be commercial quantity. Investigation is in progress. As such I am of the consider view that the decision relied upon Ld. Defence Counsel are not applicable to this case. Accordingly, I am not inclined to allow the prayer of bail, as there is a bar u/s 37 NDPS Act.

Thus, the bail petition filed by the accused Rahamat Ali and Md. Kamal Hossain dated 30-04-2025 is hereby rejected and disposed of.

Fix _____ for production and IO report.

D/C by me.

Judge, Special Court,
ADJ 3rd Court, Malda.

Judge, Special Court,
ADJ 3rd Court,