

Spl Case No. 104/ 2024
Present : Smt. Sanghamitra Podder
Judge, Special Court,
3rd Court, Malda (J.O Code – WB-00855).

Order No. 14 dated 24-04-2025

Bail petition filed by accused Nur Mohammad is taken up for hearing.

Ld. Defence Counsel and PP is present.

Ld. Defence Counsel submits that neither arresting officer nor investigation officer communicated ground the arrest to the petitioner either in writing or orally in his vernacular languages nor any intimation about the grounds of arrest was provided to the relative, friends or any person nominated by them which is gross violation of the mandatory legal provisions. Drawing the attention to this Court to the sec 50 Cr.P.C corresponding to Sec. 47 BNSS and Article 21 and 22 of the Constitution of India Ld. Advocate submitted that as there has been absolute violation of the mandatory provision of law of the accused persons should be released on bail as per the guideline of Hon'ble Supreme Court passed 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 and Hon'ble High Court of Kerala in Babu M vs State of Kerala and ors decided on 07-04-2025, Hon'ble High Court of Guahati in Sakib Choudhury vs State of Assam and others decided on 07-03-2025.

Ld. PP raises strong objection on the ground that the contraband recovered from the possession of the accused person is commercial quantity. If the accused is enlarged on bail there would be very much bad impact in the society and that the judgment relied upon by Ld. Defence Counsel are not applicable to this case as the incident took place long before the passing of the judgment. Ld. Spl PP further submits that notice u/s 50 of NDPS Act was served upon the accused person prior to his arrest.

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

After perusal of this record it appears that 407 gram brown sugar is recovered from the possession of the accused person which tantamount to commercial quantity. Investigation is in progress. Certainly there is a bar u/s 37 of NDPS Act. From the copy of the notice u/s 50 NDPS Act it is found that the accused was apprised of his right to be searched in presence of Gazetted Officer on the ground that police had information that the accused was having in his possession huge quantity of brown sugar. Moreover, a notice u/s 48 BNSS was also served upon the brother of the accused. Thus, I am of the consider view that the proposition of law underlying the judgments relied upon by the Ld. Advocate are not applicable to this case.

Contd...

In the circumstances, bail petition dated 24-04-2025 of the accused person namely Nur Mohammad is considered and **rejected**.

To date i.e on **05-05-2025** for production and report of IO .

CD be returned.

D/C by me.

Judge, Special Court
3rd Court, Malda

Judge, Special Court
3rd Court, Malda