

THE HIGH COURT OF SIKKIM : GANGTOK
(Criminal Jurisdiction)

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

BAIL APPLN. No.01 of 2025

Petitioner/Accused : Anil Tamang

versus

Respondent : State of Sikkim

Application under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023

Appearance

Ms. Tashi Doma Bhutia, Ms. Pratima Subba Limboo and Mr. Palden Dorjee Bhutia, Advocates for the Petitioner/Accused.

Mr. S. K. Chettri, Additional Public Prosecutor with Mr. Sujan Sunwar, Assistant Public Prosecutor for the State-Respondent.

Date of Hearing : 30-10-2025
Date of Order : 30-10-2025
Date of Uploading : 31-10-2025

ORDER (ORAL)

Meenakshi Madan Rai, J.

1. An application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, was filed by the Petitioner, whereby he seeks to be enlarged on bail.

2. It is submitted by Learned Counsel for the Petitioner that the Petitioner was arrested in connection with FIR bearing No.0008, dated 30-04-2025, of the Gyalshing Police Station, under the Sikkim Anti Drugs Act, 2006 (hereinafter, the "SADA, 2006") for being in possession of 328 "Proximec-Spas" Capsules which were seized from him as he could not produce a valid license under the Drugs and Cosmetics Act, 1940. The Capsules seized by the Police are said to be controlled substances under the SADA, 2006. The Petitioner has since his arrest on 30-04-2025 been in judicial custody. That, although the Petitioner has filed three bail applications before the Special Judge, SADA, 2006,

Gyalshing District, on all three occasions the bail applications have been rejected. It is further submitted by Learned Counsel that, the Petitioner is the only earning member of his family which comprises of his two minor children who are being cared for by his relatives as his wife has abandoned them and his aged parents. They are suffering on account of his incarceration as he is the only bread winner. Apart from the above circumstances, the Petitioner is also a daily wage earner in the Roads and Bridges Department, Government of Sikkim and his incarceration has put his service in jeopardy. He is aged about twenty-nine years, has no criminal antecedents, and presently the trial is at the stage of examination of witnesses with three to four witnesses yet to be examined. That, the examination of the remaining witnesses is likely to take some time. The Prosecution even after examining several witnesses has not been able to establish that the controlled substances were in the possession of the Petitioner. He is a permanent resident of the State and is not a flight risk. Hence, in view of the foregoing circumstances, he may be enlarged on bail. He undertakes to abide by any condition imposed by the Court.

3. Learned Additional Public Prosecutor while objecting to the Petition for bail submits that the Petitioner was found in possession of large quantities of "Proximec-Spas" Capsules, which are controlled substances under the SADA, 2006. The seriousness of the offence can be gauged from the fact that had he not been apprehended in 5th Mile, he could well have sold the capsules to youth of the area which could have the potential of ruining their future. That, now as the trial is approaching closure

with only few witnesses to be examined, the law may be allowed to take its natural course and the Petition for bail be rejected in view of the seriousness of the offence.

4. I have heard the rival contentions of Learned Counsel for the parties. At this stage, it is evident that 328 "Proximec-Spas" Capsules were allegedly recovered from the possession of the Petitioner. The said Capsules are purportedly controlled substances under the SADA, 2006. The consumption of controlled substances by the people of all ages without prescription is indeed a menace in the State which is affecting almost every family. It not only leads to damaging consequences for the users but also renders a hopeless situation for the family who suffer for no fault of theirs as they are innocent bystanders. It is also relevant to state at this stage that the Petitioner has not pled that he is a user of the controlled substances and not a seller. In light of the seriousness of the offence and further considering that the trial is approaching closure with a only few witnesses remaining to be examined, the Petition for bail deserves to be and is accordingly rejected and disposed of.

5. The observations made hereinabove are only for the purposes of the instant Bail Petition and shall not be construed as a finding on the merits of the matter, which shall be considered independently at the time of trial.

6. A copy of this Order be forwarded to the Learned Trial Court for information.

(Meenakshi Madan Rai)
Judge
30-10-2025

Approved for reporting : **Yes**