

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

11.05.2022
Court No.01
Item No.42
Avijit Mitra

CRM (NDPS) 113 of 2022

In Re:- An application for bail under section 439 of the
Code of Criminal Procedure;

And

In Re: Liton Sarkar

...Petitioner

Mr. Hillol Saha Poddar,
Mr. Sayantan Bhowmik,
Ms. Mousumi Das

....For the petitioner

Mr. Abhijit Sarkar,
Mr. Tapan Bhattacharjee

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Pradhannagar Police Station Case No.574 of 2019 dated 10.11.2019 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

In course of hearing of the matter on 5th May, 2022, Mr. Saha Poddar pointed out an alleged discrepancy to the effect that the weight of the sample and the exhibit number of the same differs in the seizure list and in the chemical examination report.

In view thereof, we directed the concerned Investigating Officer to appear personally and to explain. Pursuant thereto the Investigating Officer is personally present before us today.

Mr. Sarkar, learned advocate appearing for the State, upon instruction from the concerned Investigating Officer, submits that there is no discrepancy as pointed out. Upon inventory, in accordance with law, separate samples are marked and packed in envelopes in front of the learned Magistrate and sent for chemical examination. The alleged increase in weight occurs as the samples are sealed in envelopes and weighed.

Prima facie, we are satisfied with the explanation as given by the concerned Investigating Officer. However, all the said issues would certainly be further analysed and considered at the stage of the trial and on the basis of the alleged discrepancy, as pointed out by the petitioner, the entire prosecution case cannot be said to be false at this stage.

Prima facie, there had been recovery of contraband substance above commercial quantity from the possession of the petitioner and as such the statutory restrictions are clearly attracted. In view thereof, we are not inclined to exercise any discretion in his favour and as such, his prayer for bail is refused, at this stage.

However, Mr. Poddar submits that the petitioner has already suffered incarceration for about 2 years and 5 months and there is also no possibility towards conclusion of the trial in the near future since out of fourteen witnesses only one witness has been examined.

In view thereof, we direct the learned Special Court to expeditiously conduct the trial and, if necessary, upon resorting to the steps available under section 309 of the Code of Criminal Procedure so that logical conclusion of the case may be reached at the earliest, preferably within a year without granting any unnecessary adjournment to either of the parties.

The personal appearance of the Investigating Officer is dispensed with.

The application for bail CRM (NDPS) 113 of 2022 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)