

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

10.05.2022
Item no.29
Court No.01
Avijit Mitra

CRM (NDPS) 143 of 2022

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

And

In Re : Md. Jamsed

.... petitioner

Mr. Jaydeep Kanta Bhowmik

....for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Sourav Ganguly

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Phansidewa Police Station Case No.108 of 2021 dated 16.03.2021 under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Bhowmik, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. He has already suffered incarceration for about 421 days and there is no possibility towards conclusion of the trial in the near future.

Drawing our attention to the contents of the F.I.R. and a certificate of test forwarded by the competent authority vide memo dated 13th August, 2021, he submits that there are inconsistencies as regards the quantum of sample of contraband substance drawn and examined.

Mr. Ganguly, learned advocate appearing for the State opposes the petitioner's prayer and submits that recovery of contraband substance above commercial quantity from the exclusive possession of the petitioner is not disputed and as such, the statutory restrictions are clearly attracted.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

The discrepancy as pointed out on behalf of the petitioner would certainly be analysed at the stage of trial and such discrepancy alone is not sufficient for this Court to come to the conclusion that the entire prosecution is 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 under Section 37 of the NDPS Act are clearly attracted. In view thereof, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused at this stage.

However, we direct the learned Court below to frame charges as expeditiously as possible. If the charges are framed, the learned Court below shall 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 application for bail CRM (NDPS) 143 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.)