

11.05.2023
tkm/ct 28
sl no. 4

C.R.M. (NDPS) 541 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jalangi PS case no. 33 of 2022 dated 28.1.2022 under sections 21(c)/29 of the NDPS Act

And

In Re : Barjahan Sk petitioner

Mr. C Debnath

..... for the petitioner

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

..... for the State

Petitioner is in custody for more than a year. He submits there is discrepancy in the marking between the sample examined by the Chemical Examiner and the sample drawn at the spot.

Learned lawyer for the State submits sample drawn during inventory before Magistrate under section 52A of the NDPS Act marked as 'S1' was sent for chemical examination.

We have considered the materials on record. Two sets of samples were drawn. First set was drawn at the spot and marked 'A1' & 'A2'. During inventory under section 52A of the NDPS Act before Magistrate another sample marked as 'S1' and 'S2' were drawn and was examined by the chemical examiner. Procedure of sending sample drawn during inventory under section 52A of the NDPS Act for chemical examination is in consonance with the law declared in *UOI vs. Mohanlal*¹.

Under such circumstances and as materials on record show recovery of narcotics above commercial quantity, we are not inclined to grant bail to the petitioner.

Accordingly, prayer for bail is rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2016) 3 SCC 379