

D/L. 28
January 31, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 6 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with NDPS Case No. 62 of 2022 arising out of Matelli Police Station Case No. 122 of 2022 dated 19.05.2022 under Sections 22(b)/21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Kalyan Pradhan @ Turme

.... Petitioner

Mr. Jaydeep Kanta Bhowmick,
Mr. Sayantan Bhowmick

... for the petitioner

Mr. Kallol Acharjee,
Mr. Tapan bhattacharjee

... for the State

The petitioner is in custody for some time. It is contended that the First Information Report indicated that the total value of the property involved was worth Rs. 4221/-. It is, thus, contended that the mere paltry amount of articles seized cannot give rise to any presumption of guilt of the petitioner under the NDPS Act.

However, learned counsel for the State submits that the total number of SPASMO PROXYVON PLUS capsules containing Tramadol HCI seized is above the commercial quantity. Moreover, charge-sheet has already been filed in the present case. Hence learned counsel for the State opposes the prayer for bail.

Heard learned counsel for the parties.

Since the charge-sheet has already been filed and the investigation is complete, we do not find any reason in keeping the petitioner in custody. Moreover, we find a patent *prima facie*

discrepancy between the amounts of seized articles mentioned in the FIR and the charge-sheet, which also creates a presumption of doubt in favour of the petitioner.

In such view of the matter, CRM (NDPS) 6 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (under NDPS Act), at Jalpaiguri.

The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.

The petitioner, further, shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

CRM (NDPS) 6 of 2023 is disposed of accordingly.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)