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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 9 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 New Jalpaiguri Police Station Case No. 777 of 2018 dated 01.11.2018 under Section 20(b)(ii)(c)/23(c) of the NDPS Act, 1985.

In the matter of : Tojjop Alam

Mr. Sandeep Dutta

... petitioner

...for the petitioner

Mr. Nilay Chakraborty,
Mr. Saikat Chatterjee

.....for the State.

Learned counsel appearing for the petitioner points out that despite the previous rejection of bail of the petitioner on July 06, 2022 by a coordinate Bench, the specific direction of the said Bench to conclude the trial within a limited period, which expired on January 06, 2023, has not yet been complied with. By placing reliance on the order sheet of the trial court, as annexed to the present bail application, learned counsel for the petitioner submits that even on the last date, PW 1 was not produced for examination.

The prayer is opposed on behalf of the State.

Despite the previous direction of this court on the Public Prosecutor to file a report, subsequent to the said

order, no report has been prepared. However, learned counsel for the State files a one-page communication of the Public Prosecutor, issued prior to the previous order dated January 31, 2023, which merely states that status report from the lower court says that the arrested FIR named accused, namely, Tojjop Alam, is in custody and charge was not framed.

The said communication be kept on record.

Apart from the above circumstances, we find from the materials that the conditions as stipulated under Section 41B of the Code of Criminal procedure have not been complied with in the present case.

As such, we are convinced that the petitioner is required to be enlarged on bail at the present juncture, in view of the above circumstances.

Accordingly, CRM (NDPS) 9 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs. 10,000/- (Rupees Ten Thousand), 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), Jalpaiguri. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend trial on each and every date.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)