

D/L. 39
January 31, 2023
MNS

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

CRM (NDPS) 13 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. 24 of 2022 arising out of Bhaktinagar Police Station Case No. 271 of 2022 dated 11.03.2022 under Sections 21(C)/22(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

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And

In the matter of: Swapan Banik

.... Petitioner

Mr. Arjun Chakraborty,
Ms. P. Dutta Chowdhury

... for the petitioner

Mr. Kallol Acharjee,
Ms. Namrata Das

... for the State

It is contended by learned counsel for the petitioner that a co-ordinate Bench, vide order dated November 29, 2022 passed in CRM(NDPS) 305 of 2022, specifically directed the State to ensure production of the CFSL report in an expeditious manner.

It is contended that even till date, no CSFL report has been produced by the State, which contention is corroborated, on query of court, by learned counsel for the State.

Hence, although the State expresses its objection to grant bail to the petitioner, we find that since the charge-sheet has been submitted and despite specific direction of a co-ordinate Bench, the CFSL report has not yet been filed by the State, there is sufficient scope of rebuttal of the presumption under Section 37 of the NDPS Act for the purpose of granting bail to the petitioner.

Accordingly, CRM (NDPS) 13 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) 13 of 2023 is disposed of.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)