

D/L. 41
February 6, 2023
MNS

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

CRM (NDPS) 36 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2023 in connection with N.D.P.S. Case No. 114 of 2021 arising out of Bhaktinagar Police Station Case No. 1508 of 2021 dated 26.11.2021 under Sections 21(b)/22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Narayan Sarkar @ Raju

.... Petitioner

Ms. Amrapali Chaki

... for the petitioner

Mr. Saikat Chatterjee,
Mr. Arjun Chowdhury

... for the NCB.

Learned counsel for the petitioner contends that there are discrepancies, inasmuch as two seizure list were produced by the respondent authorities, one dated November 25, 2021 and the other dated November 27, 2021.

Learned counsel further submits that the petitioner is already in custody for about one year and three months. The charge-sheet has already been submitted and as such, the petitioner ought to be enlarged on bail. Over and above, the petitioner was arrested from his home within the Bhaktinagar police station area whereas the seizure was allegedly made in a different location.

Learned counsel for the State controverts the submissions made by the petitioner and opposes the prayer for bail primarily on the ground that the second seizure list was the result of additional seizure on the basis of the statements elicited from the accused.

Even on the basis of the first seizure, sufficient commercial quantity of contraband articles were recovered to raise the presumption under Section 37 of the NDPS Act. Inasmuch as the question of the situs of arrest being different from the place of occurrence is concerned, learned counsel controverts the said allegation and submits that the materials on record speak otherwise.

Upon a perusal of the materials and hearing learned counsel for the parties, we are satisfied that the presumption under Section 37 of the NDPS Act has not been dispelled sufficiently in the present case for the petitioner to be granted bail.

Accordingly, CRM (NDPS) 36 of 2023 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)