

AD-20
Ct No.01
Jalpaiguri
07.02.2023
TN

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

CRM (NDPS) 43 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 **Bagdogra** Police Station Case No. **274 of 2021** dated **18.06.2021** under Sections **21(c)/22(c)** of the **NDPS Act**.

And

In the matter of: **Md Hasen @ Md Hassan**

.... petitioner

Mr. Subhasish Misra,
Mr. Swarup Das

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Sourav Ganguly

... for the State

Learned counsel for the petitioner submits that the petitioner is in custody for 599 days.

That apart, it is submitted that the contraband articles were not found from the physical possession of the petitioner. Also, the motor bike, on which the petitioner was riding, does not belong to the petitioner.

Learned counsel for the State opposes the prayer of bail and submits that the presumption under Section 37 of the NDPS Act is fully operative. That apart, the antecedents of the petitioner are not proper.

It is also contended on behalf of the State that the contraband articles were found from the joint possession, *inter alia*, of the petitioner and others.

Perused the materials on record. We take note of the long custody of 599 days already undergone by the petitioner vis-à-vis the stage of trial. That apart, the antecedents alleged pertain to a different person and not the present petitioner. As such, the said antecedent is not relevant for the present purpose.

Hence, we are inclined to grant bail to the petitioner.

Accordingly, CRM (NDPS) 43 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), Siliguri.

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

The petitioner 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 persons from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)