

AD-26
Ct No.01
Jalpaiguri
07.02.2023
TN

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

CRM (NDPS) 48 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 Matigara Police Station Case No. 917 of 2021 dated 23.08.2021 under Section 21(c) of the NDPS Act, corresponding to C.R. (NDPS) Case No. 107 of 2021.

And

In the matter of: Md Samsher

.... petitioner

Mr. Mayank Roy

... for the petitioner

Mr. Niloy Chakraborty,
Mr. Kallol Nag

... for the State

Mr. Mayank Roy, learned counsel for the petitioner submits that there are several mitigating circumstances for grant of bail in favour of the petitioner. It is submitted that although the FIR and the seizure list initially mentioned 22 bottles of seized contraband cough syrups, the same increased to 25 bottles subsequently in the charge-sheet without any explanation. That apart, contrary to the Special Operating Procedure in NDPS cases, the samples were sent for FSL report much beyond the stipulated period of 72 hours, that is, about after 36 days in the present case. Moreover, the petitioner is in custody for about 533 days.

Learned counsel for the State opposes the prayer for bail.

However, in the above circumstances, we are inclined to grant bail, since there are several chinks in the armour of the prosecution.

Accordingly, CRM (NDPS) 48 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.)