

D/L. 52
February 9, 2023
MNS

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

CRM (NDPS) 97 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.01.2023 in connection with Jalpaiguri (NDPS) in NDPS Case No. 30 of 2018, Jalpaiguri (NDPS) arising out of C. R. Case No. 30 of 2018, NCB Crime No. 40 of 2018 dated 28.01.2019 under Sections 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Naren Dutta

.... Petitioner

Mr. Jagriti Mishra,
Mr. Sabir Ali

... for the petitioner

Mr. Sudipto Kumar Mazumder,
Mr. Ratan Banik

... for the NCB.

Learned counsel for the petitioner submits that the petitioner is about 75 years of age and is in custody for four years and six months. That apart, the de facto complainant himself was the Investigating Officer. Learned counsel further argues that although the charge-sheet has been filed long back, only one out of ten named witnesses for the prosecution has been examined till now.

Learned counsel appearing for the NCB squarely opposes the said contentions and the prayer for bail. It is argued that *per se*, there is no bar to an Investigating Officer being the de facto complainant himself. That apart, it is submitted that substantial quantum of contraband articles was seized from the petitioner.

Heard learned counsel for the parties.

In view of the presumption of Section 37 of the NDPS Act having been dented by virtue of the mitigating circumstances of the Investigating Officer being the de facto complainant himself and keeping in view the period of custody and the age of the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, CRM (NDPS) 97 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 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.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)