

D/L. 41
February 10, 2023
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 124 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.01.2023 arising out of Bagdogra Police Station Case No. 476 of 2021 dated 24.09.2021 under Sections 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Raju Sk @ Md. Raju Seikh

.... Petitioner

Mr. Abhimanyu Banerjee,
Mr. Arnab Saha

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Arjun Chowdhury

... for the State.

Learned counsel for the petitioner submits that the petitioner is in custody for 480 days. That apart, presumption of doubt have been raised by the petitioner on certain scores. First, it is submitted that the petitioner was initially apprehended on September 21, 2021, whereas the alleged seizure with regard to the contraband articles was dated September 23, 2021, that is, two days after the apprehension of the petitioner on a different offence. That apart, the CCTV footage at the location was sought by the petitioner, which was refused by the trial court. Thirdly, it is contended that the sample for CFSL was sent after two months of the seizure. The signatories as independent witnesses in the memo of arrest differ from those in the seizure list.

Learned counsel appearing for the State refutes the contentions of the petitioner and opposes the prayer for bail. It is submitted that the points

raised by the petitioner are, at best, triable issues to be decided in trial. Since this Court is not sitting in appeal over the trial court's judgment, the arguments made are premature and ought not to be grounds for grant bail at this stage.

Heard learned counsel for the parties.

Although the petitioner's involvement in the alleged crime will be decided finally in the trial, sufficient *prima facie* doubt has been raised to dilute the presumption under Section 37 of the NDPS Act. That apart, taking into consideration the period of custody of the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, CRM (NDPS) 124 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 Siliguri.

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.)