

D/L. 45
February 10, 2023
MNS

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

CRM (NDPS) 128 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.01.2023 arising out of Kharibari Police Station Case No. 349/22 dated 04.11.2022 under Sections 21(C)/22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Md. Anwar Hussain @ Md. Anwar Hussien

.... Petitioner

Mr. Jagriti Mishra,
Mr. Debayan Goswami,
Mr. Subham Gupta,
Mr. Reshab Kumar,
Mr. Raj Kumar Mitra,
Ms. Ananya Bhattacharya

... for the petitioner

Mr. Saikat Chatterjee,
Mr. Dhiman Sil

... for the State.

Learned counsel for the petitioner has raised sufficient *prima facie* doubt as to whether the quantity of contraband articles recovered were above commercial quantity. In so far as the alleged brown sugar is concerned, the recovery was of an intermediate quantity. Inasmuch as the bottles of cough syrup are concerned, there is some doubt as to what was the content of each of the bottles, thereby casting some doubt on the total amount of recovery.

Learned counsel appearing for the State controverts the allegations and opposes the prayer for bail. It is submitted that mere non-mention of the exact size of the bottles cannot vitiate the entire seizure, since the total quantity of cough syrup was above commercial quantity.

However, we find from the contentions of the parties and the records that sufficient doubt has been cast on the seizure.

Accordingly, CRM (NDPS) 128 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.)