

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

27.02.2023
35.
as
(Rejected)

C.R.M. (NDPS) 163 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No. 62 of 2020 arising out of Matigara P.S. Case No.1032 of 2022 dated 28.09.2022 under Section 17(c) & 23 (c) of the NDPS Act.

In the matter of : Umar Faruk.

... Petitioner.

Ms. Chanda Jha.

...for the Petitioner.

Mr. Aditi Shankar Chakraborty, Id. A.P.P.,
Mr. Sourav Ganguly.

...for the State.

Petitioner is in custody for more than two years and five months. He submits mandatory requirements of law were not followed during recovery. He and his family are suffering from ailments. It is also contended that the weight of the sample and the labels are not consistent with the sample examined at the laboratory. He renews his prayer for bail.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record. Statements of witnesses and contemporaneous document i.e. seizure memorandum shows recovery of 1200 grams of heroin from the petitioner. His bail prayer was rejected earlier on merits. Recovery was made from a public place. Whether the recovery would attract Section 42 of the NDPS Act requires to be assessed in the light of the aforesaid circumstances during

trial. Variation in the weighting and labeling of samples is a question of fact which must be examined in the light of the entire chain evidence on record.

Under such circumstances, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

Medical attention be extended to the petitioner, if needed. Trial court is requested to expedite the trial and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)