

27.02.2023

nb
Court -I
sl no. 65

**In the High Court at Calcutta
Circuit Bench At Jalpaiguri**

C.R.M. (NDPS) 197 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Naxalbri P.S case no. 283 of 2021 dated 15.12.2021 under section 21(c)/ 22 (c) of the NDPS Act

And

In Re Sanjay Sen @ Sanjoy Sen petitioner

Mr. Dhiraj Lakhotia,

..... for the petitioner

Ms. Aditi Shankar Chakraborty,

Mr. Kollol Achaarjee,

Mr. Kollol Nag,

..... for the State

Petitioner has assailed seizure on the following grounds.

It is contended that the Gazettee Officer has reasonably believed the accused had narcotics in his possession. He also contends that there is delay in dispatch of the sample for chemical examination and independent witness was not interrogated during investigation. The FIR maker is also a member of the raiding party.

Learned advocate for the State opposes the bail.

We are considered the materials on record. A group of police officers had apprehended the petitioner. Thereafter, the BDO had been summoned. In view of the aforesaid circumstance it cannot be said the BDO was a member of the raiding party. The de facto complainant being the investigating officer per se does not vitiate investigation. Impact of delay in dispatch of sample is a question of fact which must be assessed during trial in the light of evidence regarding chain of custody. Seizure memorandum was signed by an independent witness.

Under such circumstances and in view of the statutory restrictions under section 37 of the NDPS Act, we are not inclined to grant bail to the petitioners.

Accordingly, prayer for bail is rejected.

Charge has already been framed.

Trial Court is directed to expedite the trial & conclude the same within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)