

07.06.2023

Ct.No. 1

Item No. 25

Sb / Saswata

Rejected

***CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI***

C.R.M. (NDPS) 369 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 02.05.2023 in connection with Matigara PS case no. 1258 of 2021 dated 02.11.2021 under Section 20(c) of the NDPS Act, 1985

And

In the matter of : **Md. Abu Kalam**

...petitioner

Mr. Sudip Kumar Pal

...For the petitioner

Mr. Kallol Acharjee

Mr. Sourav Ganguly

....For the State

The petitioner is in custody from 2nd November 2021 and has renewed the prayer for bail.

The earlier prayer for bail was rejected on 27th February 2023 with the following observations:

“Statements of witnesses and contemporaneous documents show recovery of 230 bottles of cough syrup containing codein phosphate from the petitioners. Impact of non-joining independent witnesses must be assessed in the light of the statement of official witnesses during trial.

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 petitioner.”

Learned counsel for the petitioner submits that there is a long delay in sending the samples for FSL

examination and that must enure to the benefit of the petitioner.

Learned counsel for the prosecution submits that soon after the seizure, an application was filed before the Trial Court for making inventory and sending samples for FSL and ultimately the FSL report was received on 10th January 2022.

We feel that delay, if any occurred in sending the samples inventorized and deposited with the Court, may be assessed at the time of trial. The trial has already commenced and since, there is no material change in circumstances for which the earlier order would be revisited, we are not inclined to grant bail to the petitioner.

The application for bail is, accordingly, ***rejected***.

However, we request the Learned Trial Court to expedite the trial and conclude the same within a reasonable time.

CRM (NDPS) 369 of 2023 is ***disposed of***.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)