

16.06.2023
SL No.32
Court No.1
(gc)
(Allowed)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (NDPS) 399 of 2023

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Bhaktinagar Police Station Case No.1316 of 2021 dated 07.10.2021 under Section 21(c)/22(c) of the NDPS Act.

And

In the matter of : **Ashish Talukdar**

- Petitioner.

Mr. Gobinda Ghosh

... For the Petitioner.

Mr. Abhijit Sarkar,

Mr. Subhasish Misra

... For the State.

1. The learned Counsel for the petitioner submits that the charge-sheet has been filed without the FSL report.
2. The learned Counsel for the State in opposing the prayer for bail, however, has fairly submitted that the charge-sheet has been submitted without the FSL and the charges have been framed.
3. Considering the fact that the charge-sheet was filed without FSL and till date no FSL report is filed before the Trial Court and the petitioner is in custody for more than 600 days, we are of the view that the petitioner is able to rebut the presumption under Section 37 of the NDPS Act.

4. Accordingly, we allow the application for bail subject to the following conditions:-

i) The petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local subject to the satisfaction of learned Judge, Special Court, (under N.D.P.S. Act), Jalpaiguri;

ii) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever;

iii) The petitioner shall not leave the station without the permission of the learned Special Judge, NDPS Court;

iv) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer;

v) The petitioner shall attend the trial on every date of hearing, unless exempted in accordance with law;

vi) The petitioner shall inform the Special Judge, NDPS Court as well as the Officer-in-Charge of the Police Station concerned about his place of residence during bail and trial. Any change in the same shall also be communicated within 48 hours thereafter. Petitioner shall furnish details of his Aadhaar Card, Telephone Number, E-mail, PAN Card, bank Account Number, if any. The petitioner shall

surrender his passport to the learned Trial Court. In the event he does not hold any passport, he shall file an affidavit to that effect before the learned Trial Court;

vii) The petitioner shall not indulge in any criminal activities. It is made clear that in case the petitioner is arraigned as an accused in future in any FIR, then this bail is liable to be cancelled. It is open for the Investigating Agency to move appropriate application in that regard. This shall also be considered as a negative factor for consideration of his future bail application, if any.

5. Accordingly, the application for bail is allowed and disposed of.
6. All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)