

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

14.08.2023
Court No.1
Item. 24
(Suvendu)

CRM(NDPS) 489 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Matigara Police Station Case No. 64 of 2021 dated 29.01.2021 under Section 21(c) of the NDPS Act, 1985.

And

In the matter of: Ismail Hoque

.Petitioner.

Mr. Hillol Saha Podder
Ms. Mousumi Das

For the Petitioner.

Mr. Abhijit Sarkar
Mr. Sourav Ganguly

For the State.

The lack of preparation of the State in opposing the prayer for bail is significant. There is no information which is made available to the Court as to the status of the investigation. The Court has only been informed that charges were framed in February, 2022. The petitioner has been in custody for two and half years. It is also undisputed that none of the 13 witnesses have been examined for the last two and half years.

Although the State opposes the prayed for bail, the State does not have an answer as to why there has been no progress in the trial. The woeful state of affairs in pursuing the trial and the lack of any explanation, reasonable or otherwise, in our view, is sufficient to rebut the statutory restriction under Section 37 of the NDPS Act, 1985. We are also note that the order passed by the last Circuit on 7th August, 2023 recording that the

petitioner has been diagnosed with Gall Bladder Cancer and requires urgent surgical intervention. The coordinate Bench relied on a Report dated 3rd August, 2023 in this context and noted that immediate corrective measures should be taken.

Learned counsel appearing for the petitioner submits that no corrective measures have been taken in this regard till date.

The above reasons persuade us to allow the prayer for bail.

We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Special Judge, Special Court (Under NDPS Act) cum Additional Sessions Judge, 2nd Court, Siliguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.

CRM(NDPS) 489 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)

