

the charge-sheet, it is contended that surprisingly such gunny bags were not seized which raises a serious doubt with regard to the authenticity of the seizure and complicity of the present accused petitioner in the alleged crime.

Learned advocate for the State though opposes such prayer but in course of his submission he could not explain the discrepancy as pointed out by learned advocate for the petitioner.

We have meticulously perused the entire material in the Case Diary including the written complaint, the seizure list and the charge-sheet. Admittedly, though in the written complaint it has been alleged that on the fateful day and hour, the present accused petitioner was found to be in possession of contraband articles in two gunny bags but for some unexplained reason those gunny bags were not seized as appears from the seizure list. This discrepancy, in our considered view, gives a reasonable presumption with regard to the innocence of the present accused petitioner, though in this regard our view is a tentative one which shall not affect the trial. Considering the entire material and basically keeping in mind the aforementioned discrepancies, we are inclined to exercise our discretion in favour of the present petitioner.

Accordingly, we direct that the petitioner, namely, **Raju Sarkar** shall be released on bail upon furnishing a bond of Rs.10,000/- , with two registered sureties of like amount each,

to the satisfaction of the learned Special Judge (under NDPS Act), Siliguri on condition that the present accused petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provisions of Section 317 Cr.P.C. and on further condition that the present accused petitioner shall not leave the territorial jurisdiction of the learned Trial Court till the conclusion of the trial and he shall appear before the Investigating Officer once in a week unless the aforementioned two conditions are relaxed by the learned Trial Court.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)