

28.08.2023
Item no.58
Court No.01
P.P./S.D.

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

CRM (NDPS) 578 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re: Karmadhan Jamatia

.... petitioner

Mr. Kumar Shantanu

....for the petitioner

Mr. Tapan Bhattacharjee

Mr. Kallol Nag

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with NDPS Case No. 78 of 2021 arising out of Malbazar Police Station Case No.505 of 2021 dated 3.9.2021 under Section 20 (b)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Shantanu, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. Drawing our attention to the memo of arrest and the seizure list, he submits that the time when seizure was conducted and the time of arrest of the petitioner, differs. The signature of Sourav Dutta in the seizure list and in the memo of arrest also differs. In view of such anomalies and as the petitioner has already suffered detention from 3rd September 2021, he may be granted bail on any stringent condition more

so, when upon completion of investigation chargesheet has been submitted.

Mr. Nag, learned counsel appearing for the State submits that commercial quantity of contraband substance was recovered from the vehicle which was driven by the petitioner and as such there is direct nexus of the petitioner with the alleged offence and the rigors of Section 37 of the NDPS Act are attracted.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, it appears that contraband substance above commercial quantity was recovered from the vehicle driven by the petitioner and as such the statutory restrictions are clearly attracted. The dispute raised by the petitioner as regards the signatures in the seizure and in the memo of arrest is a matter to be decided at the appropriate stage.

In view thereof, we are not inclined to exercise discretion in favour of the petitioner at this stage.

The application being C.R.M. (NDPS) 578 of 2023 is accordingly dismissed.

The petitioner has expressed his anguish and inconvenience, as regards the delay in the progress of trial, we take notice of such issue and direct the learned court below to expeditiously conduct the trial and if necessary, upon resorting to steps available under Section 309 of the Code of Criminal Procedure, so that logical conclusion of this case may be

reached at the earliest, preferably within a period of 10 months as we have been informed that there are 11 witnesses left to be examined.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)