

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

18.08.2023
Court No.1
Item. 15
(Suvendu)

CRM(NDPS) 584 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with New Jalpaiguri Police Station Case No. 295 of 2022 dated 27.03.2022 under Sections 21(c)/ 22(c)/ 29 of the NDPS Act, 1985.

And

In the matter of: Nimai Byadh

.Petitioner.

Mr. Biswarup Roy

For the Petitioner.

Mr. Abhijit Sarkar
Mr. Chattu Roy

For the State.

1. Although this is the second prayer for bail, we find that the charge-sheet which was submitted on 13th September, 2022 is still to be served on the petitioner.
2. The prosecution does not have an answer to the admitted violation of Section 207 of The Code of Criminal Procedure, 1973.
3. We also note that after the rejection of the prayer for bail by the coordinate Bench on 27th February, 2023 there is no indication as to how many witnesses will be required for the trial.
4. Learned counsel appearing for the prosecution submits that there will be around sixteen witnesses.

5. Notwithstanding the earlier rejection in the month of February, 2023, there has been an inordinate delay in the trial and the charges are yet to be framed. We are hence of the view that the complete lack of movement in the trial is sufficient to rebut the statutory restriction under Section 37 of the NDPS Act.

6. The prayer for bail is hence allowed.

7. We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 20,000/- (Rupees twenty thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Additional Sessions Judge, Special Court (Under NDPS Act), 1st Court, Jalpaiguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall report to the I.O. of the New Jalpaiguri Police Station once every fortnight and shall not leave the local limits of the local police station without leave of the learned Special Court (Under NDPS Act), 1st Court, Jalpaiguri. The petitioner shall also make himself available for the trial as and when the petitioner is required.

8. CRM(NDPS) 584 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)

