

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

22.08.2023
Court No.1
Item No.24
(sg/KS)

CRM (NDPS) 595 of 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Kharibari Police Station Case No.352 of 2022 dated 11.11.2022 corresponding to C.R.(NDPS) Case No.128 of 2022 under Sections 21(c) and 22 (c) of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of: MONA ALAM & ORS.

.Petitioners.

Mr. Subham Ghosh
Mr. Mayank Roy

For the Petitioners.

Mr. Nilay Chakraborty
Mr. Sukanya Adhikary

For the State.

1. The seizure list, which is part of the records does not indicate any quantities or batch numbers with regard to the alleged Narcotic substances seized from the petitioners.

2. There is also an inexplicable delay on the part of the authorities in sending the seized substances for chemical examination. The substances were seized on 11th November, 2022, the inventory was done on 20th December, 2022 and the substances were sent for chemical examination on 9th January, 2023. The FSL report came on 12th April, 2023. Hence, there is an admitted delay of about six months from the time of the seizure and the obtaining of the FSL report including inexplicable delay in between the seizure, the inventory and sending the articles for chemical examination.

3. We have also considered the point raised on behalf of the petitioners that the substances seized falls below 2.5% of the offending substances under the standing orders 826(E) of 14/11/1985. The decision of a Single Bench of Delhi High Court in this regard has also been placed in Iqbal Singh Vs. State (Delhi) has been placed before us.
4. Learned counsel appearing for the prosecution submits that there has been delay in the chemical examination of the seized articles.
5. The above circumstances persuade us to grant the prayer for bail and hold that the petitioners have successfully been able to rebut the statutory restrictions under Section 37 of the NDPS Act.
6. The petitioners shall accordingly be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) each 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, 2nd Court at Siliguri. The petitioners shall not induce witnesses or influence them or tamper with the evidence. The petitioners shall also make themselves available for the trial as and when the petitioners are required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
7. CRM (NDPS) 595 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)

