

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

23.08.2023
Court No.1
Item No.8
(sg/KS)

CRM (NDPS) 597 of 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with New Coochbehar GRPS Police Station Case No.01 of 2023 dated 04.01.2023 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of: Tarun Debnath

.....Petitioner.

Mr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwal

For the Petitioner.

Mr. Abhiit Sarkar
Mr. Kallol Nag

For the State.

1. The records placed before us include an order dated 3rd July, 2023 passed by the learned Additional Sessions Judge, 1st Court, Coochbehar (NDPS) allowing the prayer for extension for completing the investigation under Section 36A(4) of the NDPS Act.
2. Learned counsel appearing for the State objects to the prayer for bail.
3. We find from the order that the order of extension was made on the prayer of the learned P.P.-in-charge, who submitted that the FSL report could not be collected. It is evident that several orders passed by Co-ordinate Benches relying on a Special Bench judgment delivered in *Subhas Yadav Vs. The State of West Bengal (2023) SCC Online Cal 313*, where the Bench was of the opinion that extension of the period of detention under the proviso to Section 36A(4) of

the NDPS Act is unjustified and the petitioner would be entitled to statutory bail, where the only point taken for seeking extension of the 180 days for completion of investigation is the non-availability of the FSL report. We note similar views expressed by Co-ordinate Benches in CRM (NDPS) 232/2023 and CRM (NDPS) 527/2023. We find this is sufficient to rebut the statutory restrictions under Section 37 of the NDPS Act.

4. We accordingly allow the prayer for bail.
5. The petitioner shall accordingly 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 Additional Sessions Judge, 1st Court (NDPS), Coochbehar. 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.
6. CRM (NDPS) 597 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)