

JPD-47
Ct No.01
12.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 629 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.08.2023 in connection with Pradhan Nagar Police Station Case No. 1039 of 2021 dated 28.12.2021 under Sections 21(c)/22(c) of the NDPS Act corresponding to C.R. (NDPS) Case No. 4 of 2022.

And

In the matter of: Raj Kumar Tamang

.... petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy

... for the petitioner

Mr. Kallol Acharjee,
Mr. Sourav Ganguly

... for the State

1. Learned counsel for the petitioner contends that the petitioner is in custody for about 630 days. It is further argued that there are certain serious defects in the seizure list insofar as the specific details of the allegedly seized articles were not disclosed. Learned counsel places reliance on an unreported judgment of a coordinate Bench on such premise, indicating that in the absence of disclosure of the relevant details, no case of presumption under Section 37 is made out.
2. Learned counsel for the State seriously opposes the prayer for bail and contends that the charges have been framed and the charge-sheet has already been submitted. It is argued that the petitioner ought not to be granted bail.

3. Keeping in view the prolonged period of custody, which is itself a sufficient mitigator of the presumption under Section 37 of the NDPS Act, and keeping in view the arguable case made out by the petitioner regarding sufficiency of the seizure list, we are inclined to grant bail to the petitioner.
4. Accordingly, CRM (NDPS) 629 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), Second Court at Siliguri.
5. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
6. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)