

13.09.2023
06.
mb

***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 635 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.08.2023 in connection with New Jalpaiguri Police Station Case No. 1068 of 2022 dated 24.09.2022 under Sections 21(c)/22(c)/25/28/29 of the NDPS Act, 1985.

In the matter of : Mofazzul Hossain

... Petitioner

Mr. Biswarup Roy

...for the petitioner

Mr. Abhijit Sarkar,
Mr. Tapan Bhattacharjee

.....for the State.

1. The petitioner has made out a *prima facie* case to dispel the presumption under Section 37 of the NDPS Act inasmuch as the provisions of Section 52A of the NDPS Act have not been complied with.
2. It is contended that the inventorization was done after the samples were sent for the purpose of obtaining FSL report.
3. Learned counsel appearing for the State submits that there was bona fide inadvertence but the alleged laches were not deliberate.
4. However, since the presumption under Section 37 of the NDPS Act has been diluted by contravention of Section 52A

of the NDPS Act, we are of the opinion that the petitioner is entitled to bail.

5. Accordingly, CRM (NDPS) 635 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs. 10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions and Special Judge, First Court (under NDPS Act), Jalpaiguri. The petitioner shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.

6. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)