

D/L. 55
September 12, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 642 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 Madarihat Police Station Case No. 193 of 2022 dated 16.11.2022 under Sections 20(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Rajesh Roy

.... Petitioner

Mr. Sandeep Dutta

... for the petitioner.

Mr. Tapan Bhattacharjee,
Mr. Chattu Roy

... for the State.

1. Learned counsel for the petitioner contends that there are several discrepancies in the process of arrest and complaint.
2. It is contended that the petitioner was the driver of a vehicle, which was parked near the alleged site of offence. As per the FIR, however, the articles were seized from the house of one Rabiul.
3. It is argued that since the complainants alleged that the articles were recovered from the vehicle, which differs from the version of the FIR, no case has been made against the petitioner insofar as alleged contravention of the NDPS Act is concerned.
4. Learned counsel appearing for the State opposes the prayer for bail vehemently and submits that there is sufficient scope of presumption that the articles-in-question were unloaded from the vehicle driven by the petitioner.

5. Considering the arguments of the parties, we are conscious of the fact that the petitioner could not have any direct role to play as per the version of the FIR, since the petitioner was the driver of the vehicle, but the articles were recovered from the house of one Rabiul. There is palpable discrepancy between the initial version of the complaint and the FIR on such score.
6. That apart, two other accused persons have already been enlarged on bail and the charge-sheet has already been submitted.
7. Hence, we do not find any reason to keep the petitioner in incarceration further.
8. In the light of the above observations, CRM (NDPS) 642 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes 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), Jalpaiguri.
9. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
10. 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.)