

D/L. 57.
September 12, 2023.
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) No. 648 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.08.2023 in connection with Bagdogra Police Station Case No.05 of 2022 dated 02.01.2022 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Mojaffar Ali @ Majafar Ali

.... Petitioner

Mr. Sudip Guha

... for the petitioner.

Mr. Nilay Chakraborty,
Ms. Namrata Das

... for the State.

1. At the outset, learned counsel for the State opposes the prayer for bail on the ground that the presumption under Section 37 of the NDPS Act is available, since much above the commercial quantity of contraband article was recovered from the petitioner.
2. Learned counsel for the petitioner places reliance on Section 52A of the NDPS Act, since samples were sent for FSL report without proper inventorization having taken place. Moreover, a co-accused was released on bail by a co-ordinate Bench on September 6, 2023 on similar count. The petitioner, thus, claims parity on such ground.

3. Learned counsel appearing for the State opposes the prayer for bail.
4. Upon consideration of the circumstances of the case, more so on the ground of parity with the co-accused, who has been enlarged on bail, and the cloud which has been cast on compliance of Section 52A of the NDPS Act, we are inclined to grant bail to the petitioner.
5. Accordingly, CRM (NDPS) 648 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 under NDPS Act, Siliguri.
6. 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.
7. 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.)