

06.09.2023
Court No.01
rpan/17

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

CRM (NDPS) 656 of 2023

In Re : **Dipti Barman**
- Petitioner

Mr. Sourav Ganguly
... for the Petitioner.
Mr. Kallol Nag
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Matigara Police Station Case No. 234 of 2023 dated 30.03.2023 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

Mr. Ganguly, learned counsel appears on behalf of the petitioner and submits that there has been an undue delay in seizing of the contraband substance and sending the same for sampling by the learned Judicial Magistrate. Furthermore, he submits that such delay has not been explained by the State authorities. He also relies on an order dated August 24, 2023 passed by a co-ordinate Bench in CRM (NDPS) 602 of 2023 in support of his contention that due to inordinate delay the petitioner may be granted bail as Section 52A of the NDPS Act has been violated.

Mr. Nag, learned counsel appearing on behalf of the State submits that the offence committed by the petitioner is grave in nature and as such, rigours of Section 37 of the NDPS Act are clearly attracted. Therefore, the prayer for bail should be rejected

Considering the rival submissions of the parties and materials placed on record, this Court is of the view that the contraband substance was seized on March 29, 2023 and an application was made before the learned Magistrate for certification on April 18, 2023. Furthermore, there is no explanation as to why there was delay in making such application by the Officer-in-charge, Matigara Police Station. The learned Judicial Magistrate passed an order of certification on April 25, 2023. Therefore, this Court is *prima facie* of the view that the observations made in the judgment of the Apex Court in ***Union of India Vs. Mohanlal & Another***, reported in (2016) 3 SCC 379 regarding the seizure and certification to be made without undue delay have not been complied with. This Court also finds that the petitioner is a homemaker and the possibility of her fleeing from the jurisdiction of the learned court below is not serious.

Therefore, it directs the petitioner, namely, **Dipti Barman** to be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), 2nd Court, Siliguri. She shall cooperate with the Investigating Officer and shall report to the Officer-in-charge, Matigara Police Station once a week till completion of the investigation.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

Accordingly, **CRM (NDPS) 656 of 2023** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)