

JPD-21
Ct No.01
18.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (NDPS) 716 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.09.2023 in connection with Jaigaon Police Station Case No. 100 of 2023 dated 17.04.2023 under Section 22(C) of the NDPS Act, 1985.

And

In the matter of: Anil Tamang

.... Petitioner

Mr. Jagriti Mishra,
Mr. Naser Ali,
Mr. Subham Gupta,
Mr. Reshab Kumar,
Mr. Raj Kumar Mitra,
Ms. Mrinmayee Das

... for the petitioner

Mr. Ujjwal Luksom,
Ms. Sukanya Adhikary

... for the State

1. Learned counsel for the petitioner contends that even from the complaint which led to the registration of the First Information Report (FIR), it is evident that the most incriminating article of seizure is the allegedly huge quantity of loose Spasmo Proxyvon Plus capsules. However, it is not reflected in the complaint as to the exact quantity of the same and/or that like the other seized substances, the samples were sealed and labelled in presence of the witnesses. In the absence of such specification in the

complaint itself, it is argued that the seizure itself is squarely vitiated.

2. Learned counsel further submits that a bare perusal of the signature of the Officer-in-Charge, who conducted the raid, in the Memo of Arrest as well as the First Information Report, shows that those were by different persons, which also cancels out the presumption created under Section 37 of the NDPS Act.
3. Learned counsel for the State opposes the prayer for bail.
4. Upon a careful perusal of the documents, we find that although the petitioner is justified insofar as the exact quantity of loose Spasmo Proxyvon Plus capsules was not mentioned in the complaint itself, it was indicated therein that huge quantity of the said substance was contained in plastic carry bags, having weight of 1.816 kg. Read in conjunction with the seizure list, we find that sufficient details of the said contraband were given in the seizure list.
5. That apart, the argument of the petitioner regarding the alleged discrepancies in the signature of the raiding officer in the various documents is not convincing enough to convert a bail hearing to a mini-trial.
6. In any event, the petitioner would be at liberty to argue such contentions at the time of trial.
7. However, keeping in view the presumption under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

8. Accordingly, CRM (NDPS) 716 of 2023 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)