

AD-16
Ct No.01
Jalpaiguri
21.09.2023
B.Pal

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

CRM (NDPS) 732 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.09.2023 in connection with Bhaktinagar Police Station Case No. 70 of 2023 dated 02.02.2023 under Sections 21(c)/22(c)/25/29 of the NDPS Act, 1985.

And

In the matter of: ABHISHEK MALLICK

...Petitioner

Mr. Biswarup Roy

... for the petitioner

Mr. Kallol Acharjee,
Mr. Sourav Ganguly

... for the State

1. In the present case, the charge-sheet has been submitted. The petitioner is in custody for seven months. The petitioner has raised question regarding the process of seizure and search and arrest on two grounds primarily.
2. First, there is alleged discrepancy between the FIR and the GD entry which was sent to the IC, insofar as the petitioner and the other co-accused have been described to be travelling in an auto

rickshaw in one and, in the other, to have been apprehended at a particular bus stand where they were allegedly stationary.

3. Secondly, it is argued that the quantity of the sample sent for examination was much below the quantity which is required to be sent as per the extant rules.
4. Learned counsel for the State opposes the prayer for bail and argues that the alleged discrepancy is minor and is only a matter of description. It is further argued that whatever quantity of sample may have been sent, the same turned out to be positive.
5. We are of the opinion upon hearing learned counsel that sufficient cloud has been cast on the restriction under Section 37 of the NDPS Act in view of the samples sent for examination being much less than the quantity which is required to be sent as per the governing rules. Moreover, the petitioner is already in custody for seven months and we do not find any requirement for custodial trial, particularly since the charge-sheet has already been filed.
6. Accordingly, CRM (NDPS) 732 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish 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, at Jalpaiguri.
7. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.

8. Further, 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.)