

**D/L. 43.**  
**September 21, 2023.**  
MNS

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

**CRM (NDPS) 746 of 2023**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.09.2023 in connection with Reang Police Station Case No. 06/23 of 2023 dated 30.01.2023 under Sections 20B/22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Binod Rai @ Vinod Rai

.... Petitioner

Mr. Arjun Chowdhury,  
Mrs. Pratusha Dutta Chowdhury,  
Ms. Riay Agarwal

... for the petitioner

Mr. Ujjwal Luksom,  
Ms. Sukanya Adhikary

... for the State.

1. Learned counsel for the petitioner submits that the petitioner was arrested on the statement of co-accused persons. It is argued that although the seizure list shows that the seizure was made from the bed room in the house of the petitioner, the charge-sheet mentions that the seizure was made from the person of the petitioner, to be more precise, from a backpack carried by the petitioner.
2. That apart, there is violation of Section 50 of the NDPS Act inasmuch as there was a gap of about 15 days after seizure. Moreover, the sample was sent for examination about 22 days after the seizure.
3. It is argued that such circumstances create a doubt and alleviate the restrictions of Section 37 of the NDPS Act.

4. Learned counsel appearing for the State opposes the prayer for bail.
5. However, we find from the above circumstances that the restrictions of Section 37 of the NDPS Act are not applicable in respect of the petitioner.
6. Accordingly, CRM (NDPS) 746 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, Kalimpong.
7. 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.
8. 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.)**