

D/L.33.
September 22, 2023.
MNS

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

CRM (NDPS) 764 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Matigara Police Station Case No. 1091 of 2021 dated 25.09.2021 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Ajit Kumar Prasad

.... Petitioner

Mr. Arunava Paul

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas

... for the State.

1. Learned counsel for the petitioner argues that the petitioner is already in custody for more than two years.
2. Moreover, there was a delay of about three months and fifteen days after seizure in sending the sample for the purpose of chemical examination.
3. Learned counsel appearing for the State opposes the prayer for bail and argues that the investigation was concluded within the statutory period, which should not strictly be counted within the period of detention.
4. However, we are unable to accept such submission of the State, insofar as, from the perspective of a person in custody, the entire period is nothing else but detention.

5. That apart, some doubt has been created in view of the sample having been sent for chemical examination after a period of three months and fifteen days.
6. In any event, considering the period of incarceration, we are inclined to grant bail to the petitioner.
7. Accordingly, CRM (NDPS) 764 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.
8. 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.
9. 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.
10. It is made clear, however, that the observations made above are tentative, only arrived at for the limited purpose of deciding the bail application and shall not influence the trial in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)