

10.01.2024
Sl. No. 06
Srimanta

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM(NDPS)/6/2024

In Re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with NDPS Case No. 90/2023 arising out of Samuktala Police Station Case No. 224/2023 dated 4.10.2023 under Section 20(b)(ii)(B) of the NDPS Act, 1985.

And

In the matter of : Nitesh Srivastav

...Petitioner (in jail).

Ms. Esha Acharya,
Mr. Soumyadeep Ghosh

...for the petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly

...for the State.

Heard Ms. Esha Acharya, learned Advocate for the petitioner and Mr. Aditi Shankar Chakraborty, learned Advocate for the State.

This application has been filed by the petitioner for grant of bail in connection with NDPS Case No. 90/2023 arising out of Samuktala Police Station Case No. 224/2023 dated 4.10.2023 under Section 20(b)(ii)(B) of the NDPS Act, 1985.

The bail application of the petitioner was rejected by the Judge, Special Court under NDPS Act, Jalpaiguri by order dated 22.11.2023.

As per the First Information Report in question total 31 kgs. and 314 grams 'ganja' contained in three bags were recovered from the joint possession of the petitioner and two other co-accused while they were travelling in an auto rickshaw bearing registration no. WB-69/3639. Learned Counsel for the State submits that investigation is still going on. Learned Counsel for the petitioner submits that three bags were taken separately, the petitioner was having only

one bag than which was much below the commercial quantity and as such the petitioner deserves to be granted bail. Learned Counsel for the State submits that three bags 'ganja' were recovered from possession of the petitioner and two other co-accused. Total quantity of 'ganja' recovered was 31 kgs. and 314 grams. Therefore, it cannot be said that the narcotic substance recovered was below the commercial quantity.

Considering the facts and circumstances of the case, the nature and gravity of accusation, we do not find it a fit case to enlarge the petitioner on bail at this stage. Consequently, the bail petition of the petitioner is **dismissed**.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)