

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

07.03.2024
Court No.1
Item. 6
(**kc**)

CRM(NDPS) 45 OF 2024

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Siliguri Police Station Case NO.737/2023 dated 06.09.2023 under Section 21(c) of NDPS Act, 1985; corresponding to C.R.(NDPS) Case No.65/2023; Pending before the Court of Ld. Judge, Special Court (NDPS Act), Siliguri.

And

In the matter of: Ashish Saha
.Petitioner.

Mr. Joydeep Kanta Bhowmik, Adv.
Mr. Sayanton Bhowmik, Adv.
Mr. Shubham Kumar, Adv.
Ms. Rikta Sarkar, Adv.
For the Petitioner.

Mr. Aditi Shankar Chakraborty, Adv.
Mr. Sourav Ganguly, Adv.
For the State

1. There is an unexplained delay of about 27 days from the date of seizure of contraband substance to the submission of the charge-sheet along with the CFSL report. The inventory of the contraband substance was made on 30th September, 2023 and the samples sent for chemical examination on 3rd October, 2023 which is more than a month from the inventory.
2. Learned counsel appearing for the prosecution submits that the CFSL report is yet to be collected. The charge-sheet does not contain any explanation for the delay.

3. Section 52A(2) of the NDPS Act, 1985 as well as the dictum of the Supreme Court in *Union of India v. Mohal Lal* (2016) 3 SCC 379 casts a duty on the Officer referred to in sub-section (1) of Section 52A to prepare any inventory and make an application to a Magistrate for the purpose of certification of the inventory and drawing up of representative samples without any delay.
4. The unexplained delay in the present case is sufficient to rebut the statutory restrictions in Section 37 of the NDPS Act, 1985.
5. We are inclined to allow the petitioner's prayer for bail.
6. The petitioner shall accordingly be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), 2nd Court, Siliguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
7. CRM(NDPS) 45 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS,J.)

(MOUSHUMI BHATTACHARYA,J.)