

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

07.03.2024
Court No.1
(D/L 10)
(AK)

CRM (NDPS) 55 OF 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Siliguri Police Station Case No.346 of 2022 dated 06.04.2022 under Sections 21(c)/22(c) of the N.D.P.S. Act, 1985.

And

In the matter of: **Amar Basfore**

... Petitioner.

Mr. Hillol Saha Podder

... for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Subhasish Misra

... for the State.

1. The admitted dates are as follows. The alleged narcotic substance was seized from the petitioner on 6th April, 2022 and was sent for chemical examination after 14 days on 20th April, 2022. The CFSL received the substance on 26th April, 2022 and finally prepared a Report on 20th September, 2022.
2. The above dates would show that not only was there a delay of 14 days from seizure of the substance and sending it for chemical examination but also a delay of five months from the seizure to preparation of the Report. The charge sheet does not contain any explanation for the delay.

3. Section 52A(2) of the NDPS Act, 1985 contemplates that inventory of the narcotic drug/psychotropic substance shall be prepared within the shortest possible time after seizure of the substance. Section 52A was considered by the Supreme Court in *Union of India V. Mohanlal* reported at (2016) 3 SCC 379 where the Supreme Court relied on Section 52A and held that there should not be undue delay in the proceedings contemplated under that provision of the NDPS Act. The dictum of *Mohanlal (supra)* was followed by a coordinate Bench in *CRM(NDPS) 679 of 2023 (In Re: Tofajul Seikh)* recording that there was a delay in complying with the provisions under Section 52A(2).
4. The unexplained delay is the primary ground for allowing the prayer for bail and is sufficient to rebut the statutory restriction of Section 37 of the NDPS Act.
5. We accordingly, direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand only) with two sureties each of like amount, one of who must be local and to the satisfaction of the Learned Judge, Special Court (under NDPS Act, 1985), 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.

6. C.R.M.(NDPS) 55 of 2024 is accordingly allowed and disposed of
in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)