

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

14.03.2024
Court No.1
(D/L 09)
(AK)

CRM (NDPS) 100 OF 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Matigara Police Station Case No.638 of 2023 dated 05.08.2023 under Sections 21(c)/29 of N.D.P.S. Act, 1985.

And

In the matter of: **Pradip Singha**

... Petitioner.

Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Aniruddha Biswas

...for the State.

1. The admitted dates before us are as follows: the alleged contraband substance was seized on 15th august, 2023 and was certified on 21st August, 2023. The substance was sent to the CFSL on 24th August, 2023 and received on 25th August, 2023. The CFSL report is dated 13th December, 2023.
2. The above dates show that there is a delay of about fifteen days from the date of seizure to the date when the alleged contraband substance was sent to the CFSL. More important, the charge sheet does not contain any explanation for the

delay. If the CFSL Report dated 13th December, 2023 is taken into account, the delay from the certification to the Report would be more than four months.

3. Section 52A(2) of the NDPS Act, 1985 provides for inventorising of the narcotics drug and mandates that the procedure under that Section should be done within the shortest possible time after seizure of the substance: *Union of India V. Mohanlal* reported at (2016) 3 SCC 379. *Mohanlal (supra)* has been followed by several coordinate Benches including in *CRM(NDPS) 679 of 2023 (In Re: Tofajul Seikh)*.
4. We are of the view that the unexplained delay in complying with the mandate of Section 52A(2) of the NDPS Act and the violation thereof is sufficient to rebut the statutory restriction of Section 37 of the NDPS Act.
5. We are hence inclined to allow the prayer for bail.
6. The petitioner shall accordingly be released on bail upon furnishing bond of Rs. 10,000/- (Rupees Ten Thousand) 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, 1985), Siliguri. The petitioner shall not induce or influence witnesses or tamper with evidence in any manner whatsoever. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the local limits of the concerned Police Station

during the entire period of trial without obtaining leave from the learned Court.

7. C.R.M.(NDPS) 100 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)