

30.04.2024
Court No.01
Item No. 14
Allowed

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

ar

CRM (NDPS) 102 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Siliguri Police Station Case No. 666 of 2023 dated 16.8.2023 under Sections 21(c),22(c) and 29 of the NDPS Act.

And

In Re: **Barsai Kisku & Anr.**

Petitioners

Ms. Sidhi Sethia
Ms. Rima Sarkar
Ms. Suparna Paul

For the Petitioners

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

For the State

1. The report filed by the Investigating Officer, Bhaktinagar P.S dated 26.4.2024 in Court is kept with the record. It appears that on 17th August, 2023 the sample exhibit A1 and exhibit B1 was sent to the Director of State Drugs Control and Research Laboratory, Calcutta for conducting chemical examination through Special messenger C/763 Rajib Mondal and the same was duly received by the concerned office on 18th August, 2023 vide lab no. 1671(N) and 1672(N) dated 18th August, 2023.
2. It reveals from the order of the learned Magistrate that the sample was drawn on 18th August, 2023 in his chamber at 12.30 p.m.
3. In view of such apparent discrepancy between the report filed by the S.I, Bhaktinagar P.S, dated 26.4.2024 and the order passed by the learned Judicial Magistrate, it prima facie indicates that the sample

certified by the Magistrate could not have been sent on 17th August, 2023.

4. It is submitted by the learned counsel for the petitioners that the petitioners are languishing in jail for almost eight months.
5. In view of the above, we are of the considered view that present accused persons are successful to make out a case for enlargement of bail relaxing the statutory restrictions as provided under Section 37 of the NDPS Act basically on the ground of prolongness and/or delay in trial.
6. In the facts and circumstances of the present case, the present accused/petitioners, namely, Barsai Kisku and Bandhan Majhi shall be released on bail upon furnishing a bond of Rs.10,000/-each with two registered sureties of like amount each, to the satisfaction of the learned Special Judge, Special Court at Siliguri under N.D.P.S. Act, with a condition that they shall appear before the trial court on every date of substantive hearing subject to the provision of Section 317 Cr.P.C and the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever. In the event of non-compliance of any of the conditions, the bail shall stand automatically cancelled without any further reference to this Court.
7. This application for bail is, thus, disposed of.
8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)

(Partha Sarathi Sen, J)

(Soumen Sen, J)