

JPD-01
Ct No.01
22.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 110 of 2024

In Re: - An application for post arrest bail under Section 439 of the Code of Criminal Procedure filed on 29.02.2023 in connection with Phansidewa Police Station Case No. 196 of 2022 dated 29.04.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In the matter of: **Md. Rajjak**

.... petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy

... for the petitioner

Mr. Sourav Ganguly
Mr. Kallol Nag

... for the State

1. The petitioner seeks to cast doubt on the process of sampling insofar as it is pointed out from the case diary that whereas the samples collected from the spot were marked as Exhibits-A1 and A2 as well as Exhibits-B1 and B2, those were subsequently mixed up and a single 100 gm. sample was placed for inventorisation.
2. However, the samples sent for chemical analysis where the original samples recovered from the spot marked as Exhibits-A1 and A2 and not the inventorised one, which itself is sufficient to vitiate the presumption under Section 37 of the NDPS Act.
3. That apart, the charge sheet has been filed long back and charges were framed in the month of November, 2022 and there are twelve witnesses named by the prosecution whereas the trial is yet to commence.

4. It is submitted by learned counsel that the prolonged incarceration of 814 days is sufficient ground for grant of bail to the petitioner.
5. Heard learned counsel for the prosecution, who opposes the prayer for bail.
6. Upon a careful consideration of the materials, we are of the opinion that palpable doubt has been cast on the process of sampling, since the contrabands recovered from the spot where those which was sent for chemical analysis as opposed to the inventorised article.
7. That apart, it is well-settled that prolonged incarceration, in the present case 814 days, is itself sufficient ground for bail, since the charges were framed as long back as in the month of November, 2022 and the petitioner even thereafter is languishing in custody for a considerable period without the commencement of the trial.
8. Accordingly, CRM (NDPS) 110 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, Second Court at Siliguri.
9. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
10. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person

from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)