

22.04.2024
Court No.01
Item No. 32

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

KC

CRM (NDPS) 126 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matigara Police Station Case No. 899 of 2022 dated 20.08.2022 under Sections 21(C) of the NDPS Act.

And

In Re: **Jayanta Das**

Petitioner

Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. M. Joshi
Ms. Khushi Kundu

For the petitioner

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

For the State

It is submitted on behalf of the petitioner that from the seizure list it would reveal that a sample being exhibit 'A1' was taken out at the spot of seizure. It is further submitted that the said sample was sent for chemical examination report for the purpose of testing, which is utter violation of Section 52A of the NDPS Act.

Per contra, learned counsel for the State submits before this Court that immediately after seizure on 30.08.2022 a certification on correctness of inventory etc. has been done by the jurisdictional Magistrate, which has been sent to Forensic Science Laboratory and upon which FSL report has been received showing the materials sent for examination are contraband in nature.

On perusal of the entire materials, it appears to us as to whether the sample which has been drawn at the time of seizure for FSL examination and/or the contraband whether has been drawn during certification etc. or not before the Jurisdictional Magistrate are to be decided at the time of trial while appreciating the evidence of prosecution witnesses.

We are, at this stage, are not in a position to come to a prima facie finding with regard to the violation of Section 52A of the NDPS Act as alleged on behalf of the petitioner.

Considering the entire scenario as discussed above, we are not inclined to grant anticipatory bail to the petitioner.

In such circumstances, application for bail of the petitioner is rejected. CRM (NDPS) 126 of 2024 is accordingly, disposed of.

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)