

03.05.2024
Court No.01
Item No. 02
Allowed

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

ar

CRM (NDPS) 221 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No. 30 of 2023 arising out of Alipurduar Junction GRPS Case No. 09 of 2023 dated 15.03.2023 under Sections 21(c) / 29 of the NDPS Act.

And

In Re: **Mina Gupta**

Petitioner

Mr. Kallal Ghosh
Mr. Bhanu Singha Sarkar
Mr. Rjkumar Gupta
Mr. Kishan Sah
Mr. Rakesh Gupta
Mr. Utpal Dutta

For the Petitioner

Mr. Nilay Chakraborty, Ld. APP
Mr. Arjun Chowdhury

For the State

1. In support of the application for bail learned counsel appearing on behalf of the accused petitioner through DLSA, Jalpaiguri, submits before this Court considering the fact that the present accused petitioner is languishing in jail custody for last 13 months and also considering the fact that charge-sheet has been filed on 14.5.2023, the application for bail may be considered favourably.
2. Learned counsel for the State while opposing the prayer for bail, however, submits that since chemical examination report has not been obtained no date could be framed by the learned Trial Court for consideration of charge.

3. We have meticulously gone through the entire materials of the case diary. It appears from the memo of arrest that column no. 10 is absolutely blank and the same does not bear the signature of either of a member of the family of arrested person or a respectable person of the locality. Since the omission is a serious violation of the Rules regarding arrest and also keeping in mind the long incarceration, we are inclined to hold that the present accused petitioner is successful in overcoming the statutory restrictions as provided under Section 37 of the NDPS Act basically on the ground of prolongness and/or delay in trial.
4. In the facts and circumstances of the present case, the present accused petitioner shall be released on bail upon furnishing a bond of Rs.1,000/- with one registered surety of like amount, to the satisfaction of the learned Special Court under NDPS Act, 1st Court, Jalpaiguri with a condition that the petitioner shall appear before the trial court on every date of substantive hearing subject to the provision of Section 317 Cr.P.C. In the event of non-compliance of any of the conditions, the bail shall stand automatically cancelled without any further reference to this Court.
5. This application for bail is, thus, disposed of.
6. 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)