

AD-4
Ct No.01
Jalpaiguri
22.07.2024
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 244 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.06.2024 in connection with Kharibari Police Station Case No. 133 of 2024 dated 13.05.2024 under Section 21(C)/22(C)/29 of the NDPS Act, 1985.

And

In the matter of: BAL BAHADUR TAMANG

...Petitioner

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioner

Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel for the petitioner points out that as per column no.5 of the seizure list, the contraband article was not found from the possession of the petitioner. The petitioner's involvement was restricted to recovery of Indian currency notes whereas the contraband substance was found from the other co-accused person, namely, Lalita.
2. Learned counsel for the respondent points out that as per column no.3, the articles were seized both from the person Lalita Roy and the present petitioner. That apart, it is

contended that investigation is still progressing and the arguments raised by the petitioner are matters of trial.

3. We find from the description of the seized articles in column no.5 of the seizure list that the same does not tally with column no.3. Whereas column no.5 specifically indicates that the contraband article was found from the exclusive possession of the co-accused Lalita Roy and the petitioner was only found to be in possession of Indian currency notes, column no. 3 is to the contrary. Hence, there is a patent contradiction between column nos. 3 and 5.
4. Thus, we do not find any material to impose the strict rigour of Section 37 of the NDPS Act in so far as the present petitioner is concerned, who stands on a different footing from his co-accused Lalita.
5. Accordingly, CRM (NDPS) 244 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court (NDPS Act), Siliguri.
6. The petitioner shall meet the Investigating Officer once every fortnight and shall not leave the territorial jurisdiction of the trial court throughout the period of investigation as well as trial and shall make himself available as and when required for cooperating with the Investigating Officer.

7. Further, the petitioners 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.)