

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

11.07.2024
Court No.1
(D/L 2)
(Allowed)

CRM (NDPS) 261 OF 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 01.07.2024 in connection with Dinhata Police Station Case No.1131 of 2017 dated 13.12.2017 under Sections 20(b)(ii)(B) of NDPS Act, corresponding to NDPS Case No.102 of 2017.

And

In the matter of: **Hasanur Rahaman @ Hassan Ali**

... Petitioner.

Mr. Jagriti Mishra
Ms. Ananya Bhattacharya
Mr. Sabir Ali
Ms. Mrinmayee Das

...for the petitioner

Mr. Nilay Chakraborty, Ld. APP
Mr. Subhasish Misra

... for the State.

Learned counsel appearing for the petitioner submits that the petitioner is in custody for 35 days in connection with a case which was lodged in the year 2017 and charge-sheet was filed in the year 2018. From the charge-sheet it is seen that one Hassan Ali was the charge-sheeted person, whereas name of the petitioner is Hasanur Rahaman. This is a case of mistaken identity.

Learned counsel appearing for the State was requested on 08th July, 2024 to submit a report on the identity of the petitioner. Learned counsel appearing for the State files a report and the same be kept with the record.

Report filed by the learned counsel appearing for the State categorically states that Hassan Ali and Hasanur Rahaman son of Noor Jamal Miah of Bhoram PS, Dinhata, Coochbehar, is one and same identical person.

Learned counsel for the State further submits that the petitioner cannot be enlarged on bail because of restriction under Section 37 of the NDPS Act and a supplementary charge-sheet has to be filed in the near future.

We have considered the case diary and the materials on record. From the report filed by the Inspector-in-charge, Dinhata PS, Coochbehar, it is seen that Hassan Ali and Hasanur Rahaman son of Noor Jamal Miah of Bhoram PS, Dinhata, Coochbehar, is one and same identical person, however as 9 kg. of ganja was recovered from the co-accused and on the basis of the statement of the co-accused, the petitioner has been arrested. The petitioner has been able to rebut the statutory restriction under Section 37 of the NDPS Act and he may be granted bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of Id. Chief Judicial Magistrate, Cooch Behar, subject to the conditions that the petitioner shall appear before the Trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner fails to appear before the Trial Court without justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without reference to this Court.

The application for bail is accordingly, allowed.

[MD. SHABBAR RASHIDI, J.]

(RAJARSHI BHARADWAJ, J.)