

JPD-11
Ct No.01
23.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 271 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **NCB Crime No. 05/NCB/KZU/2024** dated **25.03.2024** under **Section 8(c)** read with **Section 22(c)** of the **NDPS Act, 1985**.

And

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

.... petitioner

Ms. Pratusha Dutta Chowdhury

... for the petitioner

Mr. Sudipto Kr. Mazumder, Ld. DSGI,
Mr. Sudip Kr. Paul

... for the UOI/NCB

1. Learned counsel for the petitioner submits that the petitioner came from Mumbai to Bagdogra on an aircraft. Although at the time of the luggage of the petitioner being scrutinized at the Mumbai Airport, no apprehension was expressed and the petitioner was permitted to undertake the journey to Bagdogra, when the petitioner arrived at the Bagdogra airport, he was made to wait from 2 p.m. to 8 p.m. on the pretext that his luggage was not being available. Subsequently, he was intimated that the luggage apparently contained contraband articles. At 10 p.m., the seizure was effected in the airport. It is pointed out that there was no independent witness signing the seizure list.

2. It is contended that it was rather surprising that the petitioner was let free even after such seizure and was called to the Bagdogra police station the next day, when the arrest was effected. It is also argued that throughout the period, the luggage was beyond the control of the petitioner and, as such, doubt is cast on the entire process of arrest and seizure.
3. The learned Deputy Solicitor General contends while appearing on behalf of the respondent that the X-ray machines and other scanning gadgets used under normal circumstances for securitizing check-in luggage are not equipped sufficiently to detect the presence of contraband articles or narcotics in the luggage.
4. As such, whenever the luggage reached the Bagdogra airport, it was suspected that there were contraband articles therein, for which due searches were effected and the seizure took place at around 10 p.m. It is further argued that merely because the petitioner was called to the Bagdogra police station it does not *per se* show that he was let alone to go scot-free in the interregnum.
5. Further, it is argued that the strong presumption of Section 37 of the NDPS Act is squarely applicable to the present case.
6. Upon careful consideration of the rival contentions of the parties, this court is of the opinion that no gross irregularity or violation of any legal mandate has been made out by the petitioner to cast sufficient doubt on the process of search and seizure in the

particular circumstances of this case, so as to enlarge the petitioner on bail at this stage.

- 7.** Thus, the rigours of Section 37 of the NDPS Act are applicable.
- 8.** Accordingly, CRM (NDPS) 271 of 2024 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)