

JPD-11  
Ct No.01  
24.07.2024  
TN

Calcutta High Court  
In The Circuit Bench at Jalpaiguri  
Appellate Side

CRM (NDPS) 283 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kalchini** Police Station Case No. **46** of **2024** dated **05.04.2024** under Sections **21(c)/25/29** of the **NDPS Act, 1985**.

And

In the matter of: **Manoj Thapa**

.... Petitioner

Mr. Sourav Ganguly,  
Ms. Rishita Chakraborty,  
Mrs. Deblina Roy

... for the petitioner

Mr. Abhijit Sarkar,  
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioner submits that the petitioner was apprehended on the statement of other co-accused persons and no contraband article was recovered from the petitioner. Learned counsel for the petitioner also points out to the FIR which indicates that the co-accused persons, who were found in possession of the contraband, had made incoherent statements and were nervous and on further being asked stated that they procured prohibited drugs and were carrying it for the present petitioner for the purpose of selling it to adjacent areas of Kalchini for earning money illegally.

2. As such, it is argued that the connection between the offence and the petitioner is too remote for the petitioner to be apprehended.
3. Learned counsel for the State strongly opposes the prayer for bail and submits that the petitioner has criminal antecedents of being accused of offences under the Arms Act in which charge sheet has already been filed.
4. We find from a careful scrutiny of the FIR that the statements of the co-accused persons, at least *prima facie*, could not be a valid basis in law for apprehending the petitioner, apart from the fact that those were statements of co-accused persons, also since the said persons were incoherent in their statements and nervous at the relevant juncture when they were apprehended, even as per the FIR lodged by the Investigating Agency.
5. That apart, insofar as the criminal antecedent alleged against the petitioner is concerned, we find that there is no nexus whatsoever between the allegations made under the Arms Act and the present case under the NDPS Act.
6. All sinners have a future, as the saying goes, and, as such, we need not place a direct connect between an allegation against the Arms Act and the NDPS Act for the present purpose.
7. As such, we are of the opinion that the benefit of bail ought to be granted to the petitioner.
8. Accordingly, CRM (NDPS) 283 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a 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) at Alipurduar.

- 9.** The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
- 10.** Further, the petitioner 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.)