

AD-22
Ct No.01
Jalpaiguri
23.07.2024
B.Pal

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

CRM (NDPS) 285 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pradhannagar Police Station Case No. 23 of 2023 dated 08.01.2023 under Section 21(c)/22(C)/27A of the NDPS Act, 1985.

And

In the matter of: KUDRAT ALI

...Petitioner

Mr. Kumar Shantanu,

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Kallol Nag

... for the State

1. The petitioner seeks bail on several grounds. First, it is contended that the petitioner is a porter ('coolie') in a railway station and was carrying the luggage of other persons, who are also co-accused persons, at the time of seizure. The contraband substance was found in such luggage.
2. It is further submitted that the petitioner is already in custody for about one year and seven months. There was delay in receipt of the chemical analysis report as well. It is further argued that there are 14 named witnesses but no

charges have yet been framed, making it uncertain as to when the trial will be concluded.

3. Learned counsel for the State opposes the prayer for bail and submits that there is sufficient explanation on record for the delay in obtaining the chemical analysis report.
4. However, we find that there are 14 named prosecution witnesses whereas even the charges have not yet been framed despite the petitioner being already behind the bars for about one year and seven months. That apart, there is sufficient *prima facie* doubt as to the involvement of the petitioner, who was merely the porter carrying the luggage where the contraband articles were found and earns his livelihood by carrying the luggage of others.
5. In view of such mitigating circumstances regarding the involvement of the petitioner, we are unsure of the involvement of the petitioner in the alleged offence and as there is *prima facie* doubt as to whether the petitioner shall commit such offence if enlarged on bail, we are inclined to hold that the petitioner falls within the mitigating circumstances under Section 37(2) of the NDPS Act.
6. Thus, despite objection of the State, we are inclined to grant bail. Accordingly, CRM (NDPS) 285 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.2,000/- with two sureties

of like amount each, one of whom must be local, to the satisfaction of the Special Court (NDPS Act), Siliguri.

7. The petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial and shall attend on each and every date of trial.
8. 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.)