

AD-23
Ct No.01
Jalpaiguri
23.07.2024
B.Pal

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

CRM (NDPS) 286 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Birpara Police Station Case No. 35 of 2023 dated 16.03.2023 under Section 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of: HOSEN ALI @ NARU

...Petitioner

Mr. Kumar Shantanu

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Kallol Nag
Ms. Sukanya Adhikary

... for the State

1. The petitioner contends that seizure was effected on March 16, 2023 and the sample was received on March 24, 2023. However, after about 9 months thereafter, the report was furnished on December 14, 2023. All the more, the FSL report was filed with the supplementary charge-sheet in June, 2023 that is six months thereafter. It is submitted that the said spans of delay vitiate the presumption under Section 37 of the NDPS Act.
2. Learned counsel for the State opposes the prayer for bail and points out that on several previous occasions, the petitioner

failed to obtain bail. On a careful consideration of the materials on record, we find that at least on 4/5 occasions, either the petitioner withdrew the petition for bail or the same was dismissed as not pressed.

3. Substantial rejection of the bail prayer of the petitioner took place lastly on May 17, 2024.
4. However, from the said order of rejection, we find only reference to the narcotics being above commercial quantity and a cursory reference of Section 37 of the NDPS Act. However, the delays as pleaded now were not argued before the said Bench.
5. We find that there is gross violation of Rule 14 NDPS Rules 2022 in view of the chemical analysis report being furnished after about 9 months from receipt of the same and the same being filed in Court after six months thereafter.
6. Hence, we do not find there is any further reason to apply the rigours of Section 37 to the petitioner. Accordingly, CRM (NDPS) 286 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), Jalpaiguri.
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.)