

JPD-13
Ct No.01
24.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 287 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **NJP** Police Station Case No. **931** of **2023** dated **25.09.2023** under Sections **21(C)/22(C)/23(C)/29** of the **NDPS Act, 1985**.

And

In the matter of: **Rafikul Haque**

.... petitioner

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Mr. Naser Ali,
Ms. Mrinmayee Das,
Mr. Manish Gupta,
Ms. Silpi Basu

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel for the petitioner contends that there was a delay of about 115 days between sending of the sample for chemical analysis and receipt of the said sample. It is argued that the petitioner is already in custody for 300 days. Although the charge sheet was filed on March 15, 2024, till date no charges have been framed.
2. Learned counsel for the State strongly opposes the prayer for bail and submits that the contraband seized was brown sugar and the quantity was huge.

3. Learned counsel also cites *Hardip Singh vs. State of Punjab* reported at (2008) 8 SCC 557 as well as *Balbir Kaur vs. State of Punjab* reported at (2009) 15 SCC 795, along with the judgment of a coordinate Bench of this court following *Balbir Kaur's* case for the proposition that the delay in sending the sample for examination and/or obtaining the same is rendered inconsequential if the sample was duly sealed by the appropriate officer and was recovered from the person of the accused.
4. Although there are judgments either way on the issue as to the delay in sending and obtaining the samples of the contraband vitiating the presumption under Section 37 of the NDPS Act, 1985, we find in the present case that two previous similar prayers of the petitioner were rejected by coordinate Benches, lastly on May 13, 2024.
5. Since the charge sheet had already been filed in the month of March, 2024, when the last rejection took place, we do not find any substantial change in circumstances to grant the relief of bail to the petitioner at this juncture as well.
6. Accordingly, CRM (NDPS) 287 of 2024 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)