

JPD-21
Ct No.01
25.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 309 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Alipurduar** Police Station Case No. **352** of **2022** dated **12.07.2022** under Sections **21(c)/25** of the **NDPS Act**.

And

In the matter of: **Arjun Thapa**

.... petitioner

Mr. Dilip Chakraborty

... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Sourav Ganguly,
Mr. Kallol Nag

... for the State

1. The petitioner seeks bail on the argument that the procedure of search and seizure and arrest was vitiated primarily due to contraventions of Section 52A of the NDPS Act read with Rule 14 of the NDPS Rules, 2022. It is submitted that the seizure took place on July 12, 2022 whereas the inventorisation was done only on September 02, 2022. The application for certification, it is argued, was made beyond 30 days after the seizure.
2. That apart, although the samples were sent for chemical analysis on September 05, 2022, the laboratory report came only on May 25, 2023, that is, after about eight months thereafter.
3. Learned counsel for the State opposes the prayer for bail.

4. However, we find that there are serious infractions of Section 52A of the NDPS Act read in conjunction with Rule 14 of the 2022 Rules, particularly since the report itself came after a prolonged delay of about eight months which is grossly violative of the outer timelines as stipulated in Rule 14. As per the said Rule, the report is to be submitted under normal circumstances within fifteen days from the sample being received. At least, as per the proviso to the same, a qualitative report has to be sent within fifteen days, followed by a quantitative report after another fifteen days.
5. A reasonable and nominal delay can be understood due to heavy pressure on the laboratories. However, in the instant case, the delay was inordinate, thereby vitiating the entire process and entitling the petitioner to grant of bail.
6. Accordingly, CRM (NDPS) 309 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 learned Special Court (NDPS Act), First Court, Jalpaiguri.
7. 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.
8. 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.)