

JPD-37
Ct No.01
24.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 311 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Bhaktinagar** Police Station Case No. **140** of **2023** dated **26.02.2023** under Sections **21(c)/22(c)** of the **NDPS Act, 1985**.

And

In the matter of: **Deepraj Singh**

.... petitioner

Mr. Sudip Guha,
Mr. Sandip Guha Roy,
Mr. A. Paul

... for the petitioner

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

... for the State

1. Learned counsel for the petitioner contends that the petitioner has been in custody for 514 days. Whereas the charge sheet was filed on August 14, 2023, even till date no charges have been framed. That apart, there is a clear violation of Rule 14 of the NDPS Rules, 2022 insofar as the samples were sent for chemical analysis on March 06, 2023 whereas the test was done only on August 04, 2023 and the report was issued on August 07, 2023.
2. Learned counsel for the State opposes the prayer for bail and argues that due to huge pendency of matters before the laboratory concerned, the test could not be done earlier.

3. That apart, August 14, 2024 has been fixed before the trial court for framing of charges.
4. We are of the opinion that despite a pragmatic approach being required to be taken by the courts for the delay occasioned by the chemical laboratories due to dearth of such laboratories in the State, the delay of over five months is much beyond the period stipulated in Rule 14 of the 2022 Rules. As such, although marginal delays can be condoned, the huge delay of five months is such that it itself creates an alleviating factor insofar as the rigours under Section 37 of the NDPS Act is concerned.
5. More importantly, the fact that despite the charge sheet having been filed about a year ago, no charges have been framed as yet, creates a doubt in the mind of the court as to how long further the petitioner needs to be in incarceration as an undertrial, awaiting the conclusion of the trial. Already the petitioner is in custody for 514 days and the said interdiction to the personal liberty of the petitioner enshrined in Article 21 of the Constitution of India is sufficient in our opinion to grant bail to the petitioner.
6. Accordingly, CRM (NDPS) 311 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 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.)