

JPD-38  
Ct No.01  
24.07.2024  
TN

Calcutta High Court  
In The Circuit Bench at Jalpaiguri  
Appellate Side

CRM (NDPS) 312 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Malbazar** Police Station Case No. **1008** of **2023** dated **12.12.2023** under Section **21(c)** of the **NDPS Act, 1985**.

And

In the matter of: **Umesh Chettri @ Chhetri**

.... petitioner

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

... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP,  
Mr. Biswarup Roy

... for the State

1. Learned counsel for the petitioner contends that this is a peculiar case where charges were framed without any FSL report having been filed. That apart, there were delays in the process of certification and sending the sample to the laboratory. It is submitted that although the chemical laboratory received the samples on January 05, 2024, till date no FSL report has been filed.
2. Learned counsel for the State opposes the prayer for bail and submits that if the petitioner has any grievance regarding framing

of charges prior to the FSL report being filed, the same should be raised before a different forum.

3. Moreover, it is submitted that due to heavy pressure of work, the chemical laboratories are facing delays in conducting the chemical tests.
4. Although we are not unaware of the heavy pressure on the chemical laboratories due to the dearth of such laboratories in the State, the same *ipso facto* cannot be sufficient justification for the prolonged period already undergone for issuance of a report, which is much beyond the statutory period as enumerated in Rule 14 of the NDPS Rules, 2022.
5. More importantly, it is unimaginable as to how the charges could be framed under the NDPS Act without any FSL report being produced before the court.
6. Be that as it may, as rightly contended by learned counsel for the State, the last above ground also furnishes sufficient reason for the petitioner to challenge the framing of charges before the appropriate forum.
7. However, such forum of challenge does not prevent the petitioner from urging the said discrepancies before the bail court as well.
8. In view of the above circumstances, we are of the opinion that there are sufficient grounds for extending the benefit of doubt to the petitioner and to grant bail as prayed for.
9. Accordingly, CRM (NDPS) 312 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.

- 10.** 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.
- 11.** 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.)