

JPD-22
Ct No.01
25.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 314 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Pradhan Nagar** Police Station Case No. **708** of **2023** dated **10.09.2023** under Sections **21(C),22(C),27(A),29** of the **NDPS Act, 1985**.

And

In the matter of: **Abiraj Kumar Singh @ Aviraj Kr. Singh**

.... petitioner

Mr. Arnab Sengupta,
Mr. Salim Hussain,
Ms. Anamika Bhat

... for the petitioner

Mr. Nilay Chakraborty, Ld. APP,
Mr. Aniruddha Biswas

... for the State

1. The petitioner contends that even as per the seizure list as well as other documents of the prosecution, 25 bottles of the contraband syrup and brown sugar was recovered from the other co-accused Amirul Sheikh. Insofar as the bottles recovered from Amirul are concerned, the batch number has been clearly mentioned in the seizure list as PHC 22057.
2. In contradistinction therewith, as per the seizure list, 23 bottles of the same substance was recovered from the present petitioner, the batch number being specifically enumerated in the seizure list as PHC 22048. However, it is pointed out by learned counsel for the petitioner that in the FSL report with regard to the bottles, it is

clearly mentioned that two pet bottles having brown coloured liquid bearing batch number 22057 were the only subject-matter of such chemical analysis.

3. It is, thus, contended that the substance recovered from the petitioner was never even sent for chemical analysis.
4. Learned counsel for the State opposes the prayer for bail and submits that there was joint recovery from two persons and the specific involvement of each of the co-accused persons cannot be segregated in the manner sought to be argued by the petitioner. It is submitted that all the specimens which were collected were duly certified and thereafter sent for chemical analysis report. Hence, it is contended that the arguments of the petitioner are complicated and can at best be thrashed out in trial.
5. However, we do not find much complication in the arguments.
6. It is categorically clear and has been mentioned under different serial numbers in the seizure list itself as to what items exactly were recovered from the co-accused Amirul and what from the present petitioner.
7. The present petitioner's involvement, even as per the seizure list, was restricted to 23 bottles, having the specific batch number PHC 22048.
8. However, from the FSL report, it is clearly evident that the said bottles of the enumerated batch number in respect of the petitioner were never examined nor any report filed with regard thereto by the laboratory. The subject-matter of the chemical

analysis, as reflected in the report itself, is clearly confined to batch number PHC 22057, which was recovered not from the petitioner but from the other co-accused Amirul.

- 9.** Hence, as of date, we do not find anything on record to incriminate the petitioner, since the substance recovered from the petitioner was not even sent for chemical examination.
- 10.** It being so, we are of the opinion that the benefit of doubt can definitely be extended to the petitioner so as to obviate the bar under Section 37 of the NDPS Act.
- 11.** Accordingly, CRM (NDPS) 314 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), Second Court at Siliguri.
- 12.** 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.
- 13.** 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.)