

AD-44
Ct No.01
Jalpaiguri
24.07.2024
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 318 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.07.2024 in connection with Matigara Police Station Case No. 291 of 2023 dated 14.04.2023 under Sections 21(c)/22(c) of the NDPS Act, 1985.

And

In the matter of: AVIJIT ROY@RAVAN

...Petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy

... for the petitioner

Mr. Kallol Acharjee,
Ms. Sukanya Adhikary

... for the State

1. Heard learned counsel for the parties. Learned counsel for the State vehemently opposes the prayer for bail.
2. As rightly pointed out by learned counsel for the petitioner, we find several discrepancies in the process of search, seizure as well as chemical analysis.
3. As for example, it is evident from the seizure list annexed at page 14 of the application as well as the charge-sheet annexed at page 15 of the application that none of those documents mention the particulars, including the batch

numbers, identification etc., of the samples collected and sent for examination. This is a gross violation of Section 52A(2) of the NDPS Act which specifically stipulates that where any narcotic drugs, psychotropic substances etc. have been seized and forwarded to the Officer-in-Charge of the nearest police station or to the empowered officer, the said Officer shall prepare an inventory of such substances containing such details relating to the description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the said substances or the packing in which they were packed, country of origin etc. as the officer may consider relevant to the identity of the said drugs.

4. In the present case, however, nothing of that sort finds place either in the seizure list or the charge-sheet, thereby *prima facie* vitiating the entire process of seizure as well as the chemical analysis. The certification of test analysis issued by the laboratory refers in a cryptic fashion to some of the particulars; however, there is nothing to link those with the samples sent.
5. That apart, out of the several substances seized, only one comes within the purview of the NDPS Act and is above the commercial quantity as identified. The rest either do not comprise of contraband substances coming within the ambit of the Act or are below commercial quantity.

6. Moreover, the petitioner is already in custody for 467 days and we do not find it justified to withhold the petitioner behind the bars any longer.
7. Accordingly, CRM (NDPS) 318 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish 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 Act), Siliguri.
8. The petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial and shall attend each and every date of trial.
9. Further, the petitioners 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.)