

JPD-29
Ct No.01
25.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 326 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with New Jalpaiguri Police Station Case No. 942 of 2023 dated 01.10.2023 under Sections 20(b)(ii)(c)/25/28/29 of the NDPS Act.

And

In the matter of: **Gobinda Ghosh**

.... petitioner

Mr. Supritam Nag
Ms. Trishna Roy
Mr. Arko Sarkar

... for the petitioner

Mr. Ujjwal Luksom
Mr. Subhasis Mishra
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioner argues that it is evident from the charge sheet itself that the samples which were collected on the spot of occurrence, bearing Exhibits-A to Z, were directly sent for chemical examination which is contrary to law, since there has to be a prior inventorisation and certification before sending the samples for chemical examination.
2. We find from the charge sheet as well as from the chemical analysis report, which is a part of the Case Diary, that the contention of the petitioner is correct.

3. Thus, the process of seizure and sending the samples for chemical examination itself is *ex facie* vitiated, which entitles the petitioner to benefit of doubt for the purpose of grant of bail.
4. Keeping in view such circumstances, we are inclined to grant bail to the petitioner.
5. Accordingly, CRM (NDPS) 326 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bonds of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of Learned Additional Session Judge, First Court at Jalpaiguri.
6. 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.
7. 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.)