

JPD-9
Ct No.01
29.07.2024
S. Bag

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

CRM (NDPS) 338 of 2024

In Re: - An application for bail under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kharibari Police Station Case No. 323 of 2023 dated 16.11.2023 under Section 21(c) of the N.D.P.S. Act, 1985.

And

In the matter of: Md. Atarul & Anr.

....petitioner

Mr. Hillol Saha Podder, Adv.
Ms. Moushumi Das, Adv.

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... for the petitioner

Mr. Tapan Bhattacharjee, Adv.
Mr. Chattu Roy, Adv.

... for the State

1. Learned counsel for the petitioners submits that from the joint possession of the petitioners and the co-accused person, just above commercial quantity of brown sugar (254 grams, whereas the commercial quantity is 250 grams) was recovered.
2. There was also a delay of about five months in issuing a chemical analysis report.
3. Learned counsel further submits that charge-sheet has already been filed but no charges have been framed as yet. The petitioners are in custody for 257 days.

4. Learned counsel for the State opposes the prayer for bail and submits that the next date has already been fixed for framing of charges. That apart, there was no major violation of the provisions of Rule 14 of the NDPS Rule, 2022. It is thus, argued that the rigours of Section 37 of the NDPS Act are squarely applicable in the present case.
5. We find that the petitioner is already in custody for 257 days and that charge sheet has already been filed.
6. That apart, the total delay between seizure and the issuance of the chemical report is much above the statutory outer limit as envisaged in Rule 14 of the 2022 Rules. Thus, in view of the period already spent behind the bars and the above infraction of mandatory legal procedure by the prosecution, we are inclined to grant bail to the petitioner.
7. Accordingly, CRM (NDPS) 338 of 2024 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court (NDPS Act) at Jalpaiguri. The sureties may be common in respect of both the petitioners.
8. 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.
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.)