

JPD-10
Ct No.01
29.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 339 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matigara Police Station Case No. 144 of 2022 dated 28.01.2022 under Section 20(b)(ii)(c) of the NDPS Act.

And

In the matter of: **Zahid Khan @ Raju**

.... petitioner

Mr. Kumar Shantanu

... for the petitioner

Mr. Ujjwal Luksom

Mr. Kallol Nag

... for the State

1. Learned counsel for the petitioner contends that the petitioner was apprehended in alleged circumstances that the petitioner was driving the vehicle which was carrying the contraband articles.
2. On the other hand, the owner of the vehicle, who was also a passenger carrying the contraband article as per the prosecution case, has been enlarged on bail vide order dated March 15, 2024.
3. Learned counsel contends that there was also contravention of Section 52A of the NDPS Act.
4. Learned counsel for the State seriously opposes the prayer for bail and submits that when the prayer of the petitioner was last rejected on April 30, 2024, the other co-accused had already been enlarged on bail and as such, the same should not be considered as a changed circumstance.

5. Further, it is controverted that the provisions of Section 52A of the NDPS Act was violated.
6. Even without going into the issue as to whether Section 52A was violated, which also can be a subject-matter of trial, we find from the last rejection of bail of the petitioner dated April 30, 2024, that the same was primarily premised on the recording of the court that a coordinate Bench had refused bail on September 12, 2023.
7. However, in the interregnum, a co-accused person, that is, the owner of the vehicle from whom the actual recovery was made, had been enlarged on bail.
8. We find from the respective alleged involvements of the two co-accused that the person who has already enlarged on bail stood on a graver footing than the petitioner, since the petitioner was merely driving the vehicle whereas the other co-accused was carrying the contraband and was a passenger as well as the owner of the vehicle.
9. Considering such circumstances, we are of the opinion that similar relief should be granted to the petitioner as well.
10. Keeping in view such circumstances, we are inclined to grant bail to the petitioner.
11. Accordingly, CRM (NDPS) 339 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 Judge, Special Court (under NDPS Act), Second Court, 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.)