

JPD-11
Ct No.01
29.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (NDPS) 340 of 2024

In Re: - An application for bail under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure) in connection with Kharibari Police Station Case No. 133 of 2024 dated 13.05.2024 under Sections 21(c)/22(c)/29 of the NDPS Act, 1985.

And

In the matter of: **Lalita Roy @ Lali Roy**

.... petitioner

Mr. Hillol Saha Podder
Ms. Mousumi Das

... for the petitioner

Mr. Saikat Chatterjee
Mr. Dhiman Sil

... for the State

1. Learned counsel for the petitioner alleges that the petitioner was called as a witness to the concerned police station prior to the alleged recovery and thereafter taken to the spot of occurrence where the petitioner was framed.
2. It is contended that accordingly the petitioner sought for production of the CCTV footage of the police station prior to the time of occurrence but such prayer was rejected by the trial Court.
3. Hence, it is submitted that an adverse inference ought to be drawn against the prosecution for opposing such prayer.

4. Learned counsel for the petitioner cites a judgment of a learned Single Judge of the Madhya Pradesh High Court in the matter of *Vicky vs. State of M.P.* reported at 2021 SCC Online MP 2503 in respect of the requirement and directions for preservation of CCTV footage in police stations.
5. For the same proposition, learned counsel also places reliance on an unreported judgment of the Supreme Court in the case of *Paramvir Singh Saini vs. Baljit Singh & others* where the Supreme Court directed CCTV footage of police stations to be maintained at all possible times and preserved at least for six months.
6. Learned counsel also cites a judgment of a learned Single Judge of this court in the matter of *Sunita Shukla vs. The State of West Bengal & Ors.* in WPA 7882 of 2022, where huge costs were directed to be paid by the concerned police authorities for non-preservation on CCTV footage.
7. Learned counsel for the State opposes the prayer for bail and submits that the investigation is at a nascent stage as yet and the arguments urged form the subject-matter of trial.
8. That apart, since the petitioner has not availed of the proper remedy as against the matter of rejection of the prayer of the petitioner for production of CCTV footage, such plea cannot be taken before the bail court.

9. Furthermore, it is denied that the allegations made by the petitioner are true in any manner whatsoever.
10. We find from the records that the public prosecutor opposed the petitioner's prayer for production of the CCTV footage of the police station for the relevant point of time.
11. In other circumstances, we might have considered whether an adverse inference could be drawn against the prosecution even at the stage of bail due to such opposition.
12. However, learned counsel for the State is justified in arguing that in view of the rejection of such prayer by the competent trial court and non-preference as yet of a revision against the same, such order is valid till date in the eye of law and cannot confer any advantage on the petitioner.
13. Moreover, it is argued by the State that investigation is still at a nascent stage and as such the rigours of Section 37 of the NDPS Act are squarely applicable.
14. After a careful consideration of the submissions, we are of the opinion that although the petitioner would otherwise have been capable of arguing the case of non-production of CCTV footage and/or whether adverse inference could be drawn for the State's opposition to such prayer, since the petitioner has not taken out any revisional application against the said order of rejection dated

July 2, 2023, at this stage we are not inclined to grant bail to the petitioner.

- 15.** However, liberty is granted to the petitioner to renew the petitioner's prayer for bail in the event the petitioner successfully challenges in revision the order of rejection of production of CCTV footage of the police station for the relevant period and such production vindicates the cause of the petitioner.
- 16.** With the above observations and in the light of the same, CRM (NDPS) 340 of 2024 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)