

JPD-74  
Ct No.01  
29.07.2024  
S. Bag

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

**CRM (NDPS) 365 of 2024**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Jaigaon Police Station Case No. 62/2024, dated 28/03/2024 under Sections 21(c)/29 of the N.D.P.S. Act, 1985.

And

In the matter of: Sudhar Mangar

....petitioner

Mr. Shubhankar Dutta, Adv.

... for the petitioner

Mr. Aditi Shankar Chakraborty, Adv.

Mr. Chattu Roy, Adv.

... for the State

1. Learned counsel for the petitioner argues that a co-accused person has been enlarged on bail. Secondly, the charge-sheet in paragraph 5 indicates that the sample was sent on January 15, 2024 whereas the alleged offence took place much thereafter in the month of March, 2024. Thirdly, the lab report came after 46 days, which delay vitiates Rule 14 of the NDPS Rules, 2022.
2. Learned counsel for the State opposes the prayer for bail. Upon hearing learned counsel for the parties, we are of the opinion that sufficient grounds have not been made out by

the petitioner to overcome the rigours of Section 37 of the NDPS Act.

3. Insofar as the co-accused person is concerned, no recovery was made from the said co-accused whereas recovery was made from the present petitioner; therefore, the footings of the two are different.
4. The date of sending of sample mentioned in clause 5 of the charge-sheet does not tally with the rest of the documents which go on to show that the sample was actually sent after recovery on the date of the offence. As such, for such patently technical error, the seizure and arrest cannot be said to be vitiated.
5. The delay of 46 days, although exceeding the outer limit as per Rule 14 of the 2022 Rules, is not so large as to vitiate the entire process, particularly taking into consideration the gross dearth of designated laboratories to undertake the required chemical tests in the State.
6. Accordingly, we are not inclined to grant bail.
7. CRM (NDPS) 365 of 2024 is dismissed.

**(Sabyasachi Bhattacharyya, J.)**

**(Prasenjit Biswas, J.)**