

JPD-69
Ct No.01
01.08.2024
S.Pal

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

CRM (NDPS) 381 of 2024

In Re: - An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023 correspondence under
Section 439 of the Code of Criminal Procedure Code, 1973 in
connection with Bhaktinagar Police Station Case No.131 of 2024
dated 16.02.2024 under Sections 21(c)/22(c)/25/29 of the NDPS Act,
1985.

And

In the matter of: Santosh Mahato and Another

...Petitioners

Mr. Partha Pratim Sarkar
Mr. Debajit Kundu

...for the petitioners

Mr. Abhijit Sarkar
Mr. Kallol Acharjee
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioners contends that as per the
allegation of the State, commercial quantity of contraband
articles were recovered from the petitioners. Even in terms of
the written complaint, the said articles were recovered from
the floor of a scooty. However, the petitioners were not riding

the scooty, nor were sitting on the same. That apart, the ownership of the scooty has not been verified by the investigating agency and, as such, there is nothing till date to connect the petitioners with the alleged offence.

2. Learned counsel for the petitioners further submits that till date no FSL report has been furnished, which tantamounts to contravention of Rule 14 of the NDPS Rules, 2022.
3. Learned counsel for the State opposes the prayer for bail and argues that it is still a premature stage for observing that there was no connection between the petitioners and the scooty, since the ownership of the scooty can very well be verified even hereafter.
4. It is submitted that the outer statutory limit of filing charge-sheet is yet to expire and, as such, if the petitioners are granted bail at the present moment, the mandatory provisions of Section 37 of the NDPS Act would be violated.
5. Upon a careful consideration of the materials on record, we find that although there might be some ambiguity as to whether the petitioners were sitting on the scooty or standing in front of the same, it would be premature at this stage to come to any conclusive finding in that regard, particularly since the statutory time limit for filing of charge-sheet is not yet over. As such, it is even premature to observe whether the bar under Section 37 of the NDPS Act can be overridden in this particular case.

6. In such view of the matter, we are not inclined to grant bail at this stage.
7. Accordingly, CRM (NDPS) 381 of 2024 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)