

JPD-70
Ct No.01
01.08.2024
S.Pal

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

CRM (NDPS) 382 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure Code, 1973 in connection with Bhaktinagar Police Station Case No.1095 of 2023 dated 15.12.2023 under Sections 21(b)(ii)(c)/25/28/29 of the NDPS Act, 1985.

And

In the matter of: Azizul Haque

...Petitioner

Mr. Joydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Mr. Shubham Kumar
Ms. Sayantani Das
Mr. H. Rahaman

...for the petitioner

Mr. Ujjwal Luksom
Mr. Kallol Nag

... for the State

1. Learned counsel for the petitioner submits that the petitioner is in custody for seven months and seventeen days. Although the charge-sheet has been filed, the same was filed without the FSL report.

2. It is submitted that in view of the expiry of an inordinately long period after the samples being sent, since the FSL Report is yet to come, there is gross violation of Rule 14 of the NDPS Rules, 2022 and, as such, the rigours of Section 37 of the NDPS Act cannot be attracted to the petitioner.
3. Learned counsel for the State opposes the prayer for bail of the petitioner.
4. However, in the circumstances, we are of the opinion that in view of the palpable violation of Rule 14 of the 2022 Rules, the bar of Section 37 of the NDPS Act cannot be applied to the petitioner.
5. Accordingly, CRM (NDPS) 382 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court (NDPS Act) –cum- Additional Sessions Judge, First Court at Jalpaiguri.
6. 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.
7. 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.)