

JPD-72
Ct No.01
1.8.2024
S. Bag

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

CRM (NDPS) 384 of 2024

In Re: - An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 in connection with Pradhan Nagar
Police Station Case No. 557 of 2023 dated 28.07.2023 under Sections
21(C)/22(C)/27A/29 of the N.D.P.S. Act, 1985.

And

In the matter of: Shilajit Datta @ Rik @ Silajit Dutta and Anr.

....petitioner

Mr. Arjun Chowdhury, Adv.
Ms. Pratusha Dutta Chowdhury, Adv.
Ms. Tulip Saha, Adv.
Mr. Koushik Kr. Kanu, Adv.

... for the petitioner

Mr. Abhijit Sarkar, Adv.
Mr. Tapan Bhattacharjee, Adv.
Mr. Chattu Roy, Adv.

... for the State

1. Learned counsel for the petitioners contends that the provisions of Rule 14 of the NDPS Rules 2022 were grossly flouted, since the seizure was made on July 28, 2023, the samples were sent to the laboratory on August 14, 2023 and was received on August 22, 2023 but the test was done only on December 8, 2023 and the report was furnished later in December, 2023.

2. Learned counsel submits that the petitioners are also in custody for about 370 days. That apart, the charge-sheet includes a packet of 'Winspasmo Forte Primus' which did not find place in the seizure list itself, thereby casting a doubt on the seizure and the investigation.
3. Learned counsel for the state seriously opposes the prayer for bail.
4. However, in the circumstances as narrated above, we find a gross violation of Rule 14 of the NDPS Rules, 2022. The outer limited stipulated therein for furnishing the FSL report is 15 days. In the event due to exigencies beyond the control of the laboratory the same cannot be furnished, the laboratory has to furnish a qualitative report within 15 days, followed by a quantitative report within further 15 days. In the present case, thus, three months beyond the outer time limit was taken by the laboratory to furnish the report, which itself vitiates the process and obviates the rigours of Section 37 of the NDPS Act.
5. Furthermore, since one of the items mentioned in the charge-sheet does not find place in the seizure list itself, there is also some doubt with regard to the charge-sheet as well at a *prima facie* level. Thus, we are inclined to grant bail to the petitioners.
6. In such view of the matter, CRM (NDPS) 384 of 2024 is allowed, thereby granting bail to the petitioners on condition

that the petitioners shall furnish bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court (NDPS Act) at Siliguri. The sureties may be common for both the petitioners.

7. The petitioners 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.
8. Further, the petitioners 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.)