

JPD-77
Ct No.01
01.08.2024
S.Bag

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

CRM (NDPS) 389 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure Code, 1973 in connection with NJP GR Police Station Case No.39 of 2024 dated 23.05.2024 under Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985.

And

In the matter of: Ram Krishna Sarkar

...Petitioner

Mr. Joydeep Kanta Bhowmik, Adv.
Mr. Sayantan Bhowmik, Adv.
Ms. Debi Sarkar, Adv.
Mr. Shubham Kumar, Adv.
Ms. Sayantani Das, Adv.

...for the petitioner

Mr. Abhijit Sarkar, Adv.
Mr. Aniruddha Biswas, Adv.

... for the State

1. Heard learned counsel for the parties.
2. Learned counsel for the State seriously opposes the prayer for bail.
3. It is rightly pointed out by learned counsel for the petitioner that there were several discrepancies in the process of seizure and arrest.

4. Whereas two independent witnesses signed the seizure list, in the designated column no. 10 for signature of independent witnesses, it has merely been written by hand that intimation has been sent to the family of the accused through official mail, which means precious nothing insofar as the compliance of law is concerned. Also, in the seizure list, the quantity of the contraband is not clearly enumerated.
5. We are surprised to see such lackadaisical attitude on the part of the raiding team and the investigating officers. We take judicial note of the fact that there is sufficient presumption that the lacunae which are pointed out by the petitioner, although existent and exonerate the petitioner insofar as the rigour of section 37 of the NDPS Act is concerned, might have been deliberate on the part of the raiding team and/or the officer who conducted the raid. Such matters ought to be looked into by the appropriate officers and in future, the raiding teams ought to be extremely cautious of such count, since due to their nonchalance, several actual offenders go scot-free even at the stage of grant of bail, let alone in trial.
6. Be that as it may, in view of the lacunae pointed out, the bar of Section 37 of the NDPS Act is not applicable to the present petitioner.
7. In such view of the matter, CRM (NDPS) 389 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 Court of the Additional Sessions Judge, First Court, Special Court (NDPS Act), Jalpaiguri.

8. 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.
9. 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.
10. Let a copy of this order be communicated by the office to the Commissioner of Police, Siliguri and the Inspector General of Police, North Bengal in order to ensure that the directions and concerns as recorded above are addressed by the said authorities with immediate effect.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)