

12.08.2024
Court No.1
SL No.7
pk/AP

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CRM(NDPS) 400 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kalchini** P.S. Case No. **154 of 2023** dated **27.09.2023** under Section **22(c)** of the NDPS Act.

And

In the matter of: **Bijay Rai**

....Petitioner.

Mr. Dilip Chakraborty

...For the Petitioner.

Mr. Aditi Shankar Chakraborty

Mr. Biswarup Roy

...For the State.

1. The application for bail is canvassed on several grounds. Firstly, that the co-accused has not been arrested till now and the FSL report in respect of the seized articles has not been received despite a lapse of nearly 11 months.

2. It is further argued by the counsel for the petitioner that the petitioner is the sole bread winner of his family and his mother is aged and suffers from several ailments. It is also submitted that the petitioner's legs are injured and/or broken. He, therefore, seeks bail on any ground that may be imposed on him.

3. Learned counsel for the State submits that charge sheet has been submitted without awaiting FSL report. The FSL laboratory at Kolkata has not yet submitted the report despite the report having been sought in September/October 2023. It is

further submitted that spasmo proxyvon @ plus capsule total weight 10.660 kg have been seized from the petitioner upon a raid being conducted by the Kalchini Police Station.

4. Having heard the learned counsel for the parties, this Court is of the view that the petitioner may be given appropriate medical attention by the jail authorities and a report may be submitted to the Court below as regards the treatment.

5. The age and medical condition of the petitioner's mother cannot be a ground for bail.

6. The other grounds canvassed by the petitioner are not sufficient given the nature of the offence charged and the provisions of the NDPS Act, 1995.

7. In view of the above, this Court is not inclined to grant bail to the petitioner at this stage.

8. This Court is, however, anguished at the delay of about 11 months in the FSL report not coming into the hands of the IO.

9. The Director, FSL, Kolkata - 700015 shall cause an enquiry and submit a report to the Registrar of this Court as to why 11 months has elapsed without any report on the seized substances from the petitioner.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)