

AD-13
Ct No.01
Jalpaiguri
12.08.2024
sp

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

CRM (NDPS) 406 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure and 483 of Bharatiya Nagrik Suraksha Sanhita, 2023 filed on 30.07.2024 in connection with C.R. (NDPS) Case No. 02 of 2023 arising out of Pradhannagar Police Station Case No. 23/2023 dated 08.01.2023 under Sections 21(C)/22(C)/27A of the NDPS Act.

And

In the matter of: Kashif Mahfuz Shaikh

Mr. Prajnadeepta Roy

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Kallol Nag

... for the State

1. The application for bail is canvassed on the ground that the co-accused has been granted bail by a Co-ordinate Bench of this Court on 23rd July, 2024. The Co-ordinate Bench found that the petitioner and the co-accused were in custody for more than 1 year and 7 months and charges have not been framed by the Court below.
2. The principal accused/alleged owner of the contraband is absconding. The petitioner according to the learned counsel is a mere porter who is carrying the luggage in which the contraband was contained and the owner of the contraband was not arrested. The said Monsur Ali main accused was not present at the time of raid.

3. Hence, according to this Court, it cannot be established at present as to whether the petitioner is a mere porter or was also the person who was responsible for bringing in the contraband.
4. This Court is, therefore, not convinced that the petitioner was a mere porter of the luggage in which the contraband was found and that he was not aware of the contents. Upon the raiding the raiding party approaching the petitioner and the other accused they started to flee. A mere porter who is not aware of the contents of the luggage he is carrying, is not expected to flee upon seeing the police.
5. The aforesaid facts do not appear to have been placed by the State before the Co-ordinate Bench.
6. This Court directs the Court below to expeditiously frame charges and the prosecution to examine 15 witnesses as expeditiously as possible. The trial may be disposed of as expeditiously as possible, preferably within a period of 8 months from the date of communication of a copy of this order.
7. CRM (NDPS) 406 of 2024 is, thus, dismissed.
8. Let the Case Diary be returned.
9. All the parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)

(Rajasekhar Mantha, J.)