

59. 08.11.2024
Court
No.1 (Tanmoy)

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (NDPS) 478 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Sitai** Police Station Case No. **189/2024** dated **20.09.2024** under Section **20(b)(ii)B** of the NDPS Act, 1985.

And

In the matter of: - **Rahul Miah**

...petitioner.

Mr. Anirban Banerjee
Mr. Makleswar Rahaman

...for the petitioner.

Mr. Nilay Chakraborty, APP
Mr. Tapan Bhattacharjee

...for State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected on October 18, 2024, in CRM (NDPS) 460 of 2024.
2. The petitioner says that the seizure took place on September 19, 2024. Till date inventory has not been done. He is in custody for 50 days. Eight Kgs. i.e. intermediate quantity of *ganja* was allegedly seized from him. He prays for bail.
3. Opposing the prayer for bail learned State Advocate says that just because the restrictions in Section 37 of the NDPS Act, 1985 do not apply, that does not mean that the

petitioner is automatically entitled to bail. After all, contraband items were recovered from him.

4. We have considered the facts and circumstances of the case and the material on record. We are surprised to see that even though seizure took place on September 19, 2024, inventorisation has not taken place till date. The sample has also not been sent to FSL.
5. Under those circumstances, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Rahul Miah** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of Rs.12,500/- (Rupees Twelve Thousand Five Hundred) each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, ^{1st} Court, Cooch Behar (NDPS), subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

8. The application for bail being CRM (NDPS) 478 of 2024 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all necessary formalities.

(Arijit Banerjee, J.)

(Biswaroop Chowdhury, J.)