

29.11.2024
SL No.7
srm/Mujahid
(Allowed)

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

C.R.M. (NDPS) 509 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973/Section 483 of the B.N.S.S. 2023 filed on **07.11.2024** in connection with **Phasidewa** P.S. Case No. **99/2024** dated **22.03.2024** under Section 21(c) of the NDPS Act.

And

In the matter of: **Rahman SK @ Rohomon SK**

....Petitioner

Ms. Radhika Agarwal,
Mr. Dhiraj Lkhotia,
Ms. Meghna Joshi,
Ms. Khusi Kundu

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Dr. Arjun Achowdhury

...for the State

The petitioner is in custody for eight months. The petitioner contends that the sampling and inventory of the contraband article was certified by the Magistrate on May 7, 2024, but the samples were sent for chemical examination prior to such certification, i.e., on April 9, 2024. The samples were received by the FSL on April 15, 2024. It is further contended that the packets containing the samples had leaked and the forensic report indicates that the quantity of sample received was much less than what had been collected.

Learned Additional Public Prosecutor opposes the prayer for bail on the ground that although the certificate of

correctness was given on May 7, 2024, the sampling and inventory was done prior to sending the samples to the FSL for chemical examination.

We have considered the provisions of the statute. We have considered the materials on record. We have also considered the relevant dates of seizure, sampling and certification. The FSL report indicates that all the packets of the samples containing the contraband articles had leaked and the quantum of samples which were ultimately received for chemical examination were of lesser amount in each of the five packets than what was taken for sampling.

We have also considered the orders of the learned coordinate Benches of this Court in the matters of ***Sah Jamal vs. The State of West Bengal [CRM (NDPS)/127/2024]***, ***Supria Das vs. The State of West Bengal [CRM (NDPS)/61/2024]***, ***Chiranjit Mondal vs. The State of West Bengal [CRM (NDPS)/150/2024]***, ***Tajibur Rahaman vs. The State of West Bengal [CRM (NDPS)/267/2024]***, ***Manish Jha vs. The State of West Bengal [CRM (NDPS)/669/2024]*** and ***Md. Hasanul vs. The State of West Bengal [CRM (NDPS)/44/2024]***. Upon taking note of the effect of leakage of the samples, Their Lordships had observed that any anomaly in the seizure, inventory and certification would be fatal to the prosecution case.

Considering all these aspects, the fact that charges have not been framed and 14 witnesses have been cited, we are

inclined to grant bail to the petitioner. The prayer for bail is allowed.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of equal amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Siliguri and on further conditions that the petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend court on each and every date. The petitioner shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as stated hereinbefore, it is open to the learned trial court to cancel the bail of the petitioner without any further reference to this Court.

The application for bail is, thus, allowed.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)