

02.12..2024
Ct. No. 01
SL No. 37
Cp
(allowed)

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

CRM (NDPS) No. 550 of 2024

In Re: - An application for bail under Section 483 of the B.N.S.S. 2023 in connection with Mathabhanga Police Station Case No. 671 of 2024 dated 09.09.2024, under Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985.

And

In the matter of: Ashok Das

.....petitioner.

Mr. Sandip Guha Roy

... for the petitioner

Mr. Tapan Bhattacharjee

Ms. Sukanya Adhikary

...for the State

1. Learned advocate representing the petitioner prays for bail on the ground of non-compliance of Section 52A of the NDPS Act. It is submitted that the wife of the petitioner is in the family way. He is in custody for almost three months.
2. Learned advocate for the State admits that the magisterial certification has not been issued as yet and prior to such certification, sample was sent for chemical examination. The report has not yet been received.
3. Considering the decision of the Hon'ble Apex Court in Mohammed Khalid & Anr. Vs. State of Telangana, reported in (2024) 5 SCC 393, in support of the proposition of law that non-compliance of Section 52A of the NDPS Act, would vitiate the trial, we are inclined to release the petitioner on bail. We have also considered the nature of the alleged offence.

4. 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 learned Judge, Special Court under NDPS Act, Coochbehar, subject to the condition that the petitioner shall meet the investigating officer twice a week until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future. The petitioner will not leave the jurisdiction of the concerned police station.
5. In the event the petitioner fails to comply with the conditions as stated hereinabove, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
6. The application for bail is, thus, allowed and disposed of.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)