

03.01.2024
Sl. No. 06
Srimanta

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

CRM(NDPS)/858/2023

**In Re : An application for bail under Section 439 of the
Code of Criminal Procedure, 1973**

And

In the matter of : Sajjad Ali

...Petitioner.

Mr. Arunava Paul

...for the petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly

...for the State.

Heard Mr. Arunava Paul, learned Advocate for the petitioner and Mr. Aditi Shankar Chakraborty, learned Advocate for the State.

As per prosecution case, three accused persons, namely, Fate Ali, Sahil Ali and the present petitioner, Sajjad Ali came on two motor cycles and got down from the motor cycle and two carried carton box holding jointly towards passenger waiting room Jalpai More under Siliguri Police Station and on interception by the Police party, the carton box was found containing 50 bottles of 'Altorex-CD' cough syrup and the accused persons could not produce any document in support of possession of the aforesaid cough syrup. The accused persons were arrested on 29.01.2022. It has been stated by the learned Counsel for the petitioner before us that the accused, Sahil Ali has been granted bail by the Special NDPS Court, Siliguri but copy thereof has not been filed along with the present petition. Perusal of the petition shows that the other accused, namely Fate Ali @ Fateh Ali filed CRM(NDPS)/692/2023 before this Court and by order dated 22.09.2023 the bail was granted to him. The

order dated 22.09.2023 in CRM(NDPS)/692/2023 passed by this Court is reproduced below:-

“Learned Counsel for the petitioner has made out a strong case for bail insofar as there is a prima facie violation of Section 52A of the NDPS Act, as the sample was sent for chemical examination prior to issuance of certificate of inventory.

Hence, the rigours of Section 37 of the NDPS Act, is not available in the present case.

Accordingly, CRM(NDPS) 692 of 2023 is allowed thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court under NDPS Act, at Siliguri.

The petitioner shall not leave the territorial jurisdiction of the trial Court during the entire period of trial and shall attend each and every date of trial.

Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the Court and/or tamper with the evidence in any manner whatsoever.”

Learned Counsel for the petitioner submits that the present petitioner stands on similar footing as the other accused persons and, therefore, the bail petition of the petitioner deserves to be allowed. He further submits that mandatory provisions of Section 52A of the NDPS Act was not followed and that apart the First Information Report itself indicates false implication.

Learned Advocate for the State submits that charge-sheet has already been submitted and the trial is in process.

Considering the entire facts and circumstances in a *prima facie* manner and the submissions of the learned Counsel for the respective parties including the aforequoted bail order dated 22.09.2023, we find that it is a fit case to grant bail to the petitioner. Accordingly, the bail petition is allowed in terms of the aforequoted order dated 22.09.2023 passed in CRM(NDPS)/692/2023 (Fate Ali @ Fateh Ali –Vs.- State of West Bengal).

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)