

09.01.2024
Sl. No. 03
Srimanta

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

CRM(NDPS)/859/2023

In Re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with CR(NDPS) Case No. 175/2021 arising out of Matigara Police Station Case No. 1319/2021 dated 20.11.2021 under Section 21(c) of the NDPS Act, 1985.

And

In the matter of : Dilsad Khan @ Dilshat Khan

...Petitioner.

Mr. Arunava Paul

...for the petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Arjun Chowdhury

...for the State.

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

This application has been filed by the petitioner for grant of bail in connection with CR(NDPS) Case No. 175/2021 arising out of Matigara Police Station Case No. 1319/2021 dated 20.11.2021 under Section 21(c) of the NDPS Act, 1985 pending before the Special Court (NDPS Act) at Siliguri, District - Darjeeling.

The First Information Report was lodged on 20.11.2021 and the samples were drawn without compliance to Section 52A of the NDPS Act. The co-accused, Md. Islam has been granted bail by this Court by order dated 12.09.2023 in CRM(NDPS)/633/2023, as under:-

1. "Learned Counsel for the petitioner argues that the petitioner is behind the bar for 1 year 9 months 5 days. That apart, there is gross contravention of Section 52A of the NDPS Act insofar as the samples were sent for FSL report on December 14, 2021,

whereas the inventorization was done only on December 18, 2021.

2. Further, it is argued that even as per the FIR, the quantity of the contraband material seized from the person of the petitioner was below the commercial quantity.
3. Learned Counsel for the State opposes the prayer for bail.
4. However, keeping in view the above mitigating circumstances made out by the petitioner, we are inclined to grant bail to the petitioner.
5. Accordingly, CRM(NDPS)/633/2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), Siliguri.
6. 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.
7. 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

The petitioner is in jail since 20.11.2021”.

Considering the mitigating circumstances made out by the petitioner and also the grant of bail to the co-accused as aforesaid, we are inclined to grant bail to the petitioner.

In view of the aforesaid, the bail is granted to the petitioner in terms of the aforequoted order dated 12.09.2023

in the matter of co-accused, Md. Islam in CRM(NDPS)/633/2023. The bail petition is accordingly allowed.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)