

**03.01.2024**  
Sl. No. 11  
Srimanta

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

**CRM(NDPS)/868/2023**

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

**And**

**In the matter of : Jyotin Barman & Ors.**

**...Petitioners.**

Mr. Arunava Paul

...for the petitioners.

Mr. Aditi Shankar Chakraborty,  
Mr. Biswarup Roy

...for the State.

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

This is the fourth bail application filed by the petitioners for bail in connection with Siliguri Police Station Case No. 1125/2020 dated 25.08.2020 under Section 20(b)(ii)(c) of the NDPS Act, 1985. As per prosecution case 58.5 kg ganja was recovered from the possession of the petitioners on 25.08.2020. Petitioners were arrested on the same day, i.e., 25.08.2020. The samples were drawn and the inventory of contraband goods was certified by the Judicial Magistrate, Siliguri in terms of Section 52A of the NDPS Act, 1985 by order dated 2.9.2020/14.09.2020. Thereafter, the samples were sent to the State Drug Control and Research Laboratory for chemical examination. Thus, the provision of Section 52A have been complied with.

The first bail application of the petitioners being CRM (NDPS)/239/2022 was rejected by order dated 10.08.2022. The second bail petition for CRM(NDPS)/333/2023 was rejected by this Court by order dated 5.6.2023 and the third bail petition being CRM(NDPS)/568/2023 was rejected by this

Court by order dated 22.08.2023. The order dated 22.08.2023 passed by this Court in CRM(NDPS)/568/2023 is reproduced below:-

"We have considered the fact of the four petitioners being involved in the alleged offence of being in possession of narcotic substance above commercial quantity. This also appears to be the third application for bail without the petitioners showing any subsequent event from second order of rejection of 5<sup>th</sup> June, 2023. The only defense taken is that the seized substance was sent for chemical analysis after twenty days from the date of the seizure.

We are of the view that this is a point which should be considered at the time of trial.

Learned Counsel appearing for the prosecution submits that the learned NDPS Court at Siliguri is over burdened and that is the reason for fixing the next date on 20<sup>th</sup> November, 2023.

The prayer for bail is hence rejected.

Since the petitioners have been in custody for almost three years, we expect that the trial will be concluded as expeditiously as possible and preferably within six months from the communication of this order on the learned trial Court.

The petitioners shall be at liberty of seeking appropriate orders if there is undue delay in the trial.

CRM(NDPS) 568 of 2023 is accordingly rejected and disposed of in terms of the above."

The petitioners have filed the present petition as the fourth petition for bail under Section 439 of the Code of Criminal Procedure.

No change in circumstances or fresh material have been brought on record by the petitioners, other than those mentioned in the earlier petitions which were dismissed.

*Prima facie*, looking into the facts and circumstances of the case, the evidences collected by the Investigating Officer and the gravity of offence and no change in circumstances, we do not find any good ground to grant the bail to the petitioners. Consequently the bail petition is dismissed.

**( Surya Prakash Kesarwani, J. )**

**(Rai Chattopadhyay, J.)**