

23.02.2024  
Court No.1  
Item No.24  
(Rejected)

**CALCUTTA HIGH COURT**  
**IN THE CIRCUIT BENCH AT JALPAIGURI**

**CRM (NDPS) 77 of 2024**

KB

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 29.01.2024 in connection with C.R.(NDPS) case no. 132 of 2021 arising out of Matigara Police Station case no 1071 of 2021 dated 21.09.2021 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act 1985.

And

In the matter of : **Bapi Singha & Anr.**

.....**Petitioners.**

**Mr. Biswarup Roy**  
**Ms. Supriya Debnath**

**...For the Petitioners.**

**Mr. Tapan Bhattacharjee**  
**Mr. Subhasish Misra**

**... For the State.**

Several applications filed for bail by the petitioners stood rejected by this Court; last of such rejection was on 23rd November, 2023.

The instant application for bail is taken out on the ground that there is significant variance in the weights of the contraband between the seizure list and the certificate issued by the Judicial Magistrate while exercising powers under Section 52A of the NDPS Act.

It is thus submitted that because of such variance and if the certificate issued by the Judicial Magistrate is taken to be sacrosanct, the quantity allegedly recovered from the joint possession

together with 22 bottles of “Cefrex” Cough Syrup each containing 100 Ml. were seized at the time of interception.

However, the certificate issued by the 1<sup>st</sup> Court of Judicial Magistrate, Siliguri where the entire alamats was produced indicates 190 gms. of brown sugar and 2 bottles of the said cough syrup containing 100 Ml.

There is a stark difference in the total weight of the number of bottles. If the certificate issued by the Judicial Officer is taken to be sacrosanct, which ought to be, the quantity so revealed is below the commercial quantity.

On the other hand, if the seizure lest is believed the contraband so recovered is above the commercial quantity.

The counsel for the State is unable to disclose such alarming difference in the total weights in absence of an instruction from the investigating officer.

Considering the aforesaid facts which are serious in nature and bearing in mind the provisions contained under Section 52A of the said Act where the entire seized contraband should be produced before the Magistrate, we feel that an investigation is required to be made and the person found responsible therefor should be dealt with iron hand.

We, therefore, direct the Additional Director General of Police, North Bengal to personally look into the matter and submit a report

against the person found responsible for such discrepancies and/or serious lapses so that the recurrence is completely stopped.

Bearing in mind that the earlier applications were dismissed by the Court believing the total weights recovered as disclosed in the seizure list to be above the commercial quantity, we do not intend to pass an order at this stage for release of the petitioner on bail.

However, after filing of the said report, the prayer for bail shall be considered.

List the matter after ten days.

**(Harish Tandon, J.)**

**(Supratim Bhattacharya, J.)**