

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

**CRM 266 of 2021
(Via Video Conference)**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with NDPS Case No.50 of 2020 arising out of Bhaktinagar Police Station Case No.776 of 2020 dated 06.09.2020 under Sections 21(c)/22(c)/23(c) of the Narcotic Drugs & Psychotropic Substances Act, 1985 read with Section 406 of the Indian Penal Code.

And

In the matter of: Uttam Kumar Saha & Uttam Saha

.... Petitioner

Mr. Sayan De,
Mr. Sampad Das,
Ms. Esha Acharya,
Mr. Manash Dutta Chowdhury.

... For the Petitioner

Mr. Ujjwal Luksom,
Mr. Sourav Ganguly.

... For the State

Learned counsel for the petitioner submits that although the contraband articles were not recovered from the premises of the petitioner and the petitioner had placed a valid purchase order in the eye of law for the consignment, the petitioner was arrested, erroneously clamping charges against him. Learned counsel relies on *Mohd. Sahabuddin and another Vs. State of Assam* reported at (2012) 13 SCC 491 for the proposition that if the consignment came within the permissible limits, the case would not fall within the purview of the NDPS, Act, 1985. Learned counsel further relies on Section 8 of

the NDPS Act indicating that the petitioner could at best be implicated on the ground of purchase which, in the present case, was valid.

Learned counsel for the State opposes the prayer for bail and submits that the petitioner did not have a proper pass as required under the West Bengal Narcotic Drugs and Psychotropic Substances (Manufacturing) Drugs Rules, 1985. Moreover, the petitioner's complicity, it is submitted, cannot be ruled out entirely.

However, in our opinion, from the materials on record, there is scope of doubt as regards the involvement of the petitioner in the alleged offence, which would entitle the petitioner to get bail. Accordingly, CRM 266 of 2021 is allowed, thereby granting bail to the petitioner, namely, Uttam Kumar Saha @ Uttam Saha, on condition of furnishing security of Rs.20,000/- with two sureties of like amount each to the satisfaction of the Additional Sessions Judge, Second Court at Jalpaiguri (NDPS). The petitioner shall not commit any offence similar to the offence of which he is accused during trial. Further, the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him or her from disclosing such facts to the court or to any police officer or tamper with the evidence. The petitioner shall attend each date of trial before the trial court.

(Sabyasachi Bhattacharyya, J.)

(Kausik Chanda, J.)