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Calcutta High Court
In the Circuit Bench at Jalpaiguri

CRM 407 of 2021
(Via video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kharibari Police Station General Diary No. 394 of 2021 dated 11.03.2021 under Section 138 of the Negotiable Instruments Act, 1881

In the matter of : Sunil Baidya @ Sunil Vaidya
@ Sunil Ashmini Vaidya
... Petitioner.

Mr. Bibek Jyoti Basu,
Mr. Binay Kumar Prasad

...for the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas
.....for the State.

It is submitted by learned counsel for the petitioner that on the intimation of the Joint Civil Judge (J.D.) and J.M.F.C., Paithan, Maharashtra, the petitioner was arrested at the behest of the Superintendent of Police, Darjeeling.

Despite the offence, that is, under Section 138 of the Negotiable Instruments Act, being a bailable offence, the Sessions Judge refused the petitioner's prayer for bail.

It is submitted by learned counsel appearing for the State that in the event the warrant is non-bailable, there is discretion in the Court for grant of bail. However, it is submitted by learned counsel for the State, in all fairness, that the nature of warrant is not clear from the communication made to the Superintendent of Police.

As such, the benefit of doubt ought to go in favour of the petitioner since the matter pertains to a question of curtailment of personal liberty, as guaranteed by the Constitution of India.

Accordingly, C.R.M. 407 of 2021 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10.000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the Additional Chief Judicial Magistrate, Siliguri. Such bail will be operative till April 26, 2021.

Petitioner is at liberty to renew the prayer for bail.

Urgent Photostat certified copy of this order, if applied for, be made available to the petitioner, upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)