

14.01.2022
Item no.17.
Court No.01.
S. De
(Rejected)

(Via Video Conference)

Circuit Bench of Calcutta High Court
at Jalpaiguri

CRM (NDPS) No. 2 of 2022

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2022 in connection with Sitai Police Station Case No. 144 of 2021 dated 08.09.2021 under Sections 21(C)/29 of the N.D.P.S. Act.

And

In the matter of : Rebati Barman @ Revati Barman.

.....Petitioner.

Mr. Hillol Saha Podder,
Mr. Sabit Ahmed,
.....for the Petitioner.

Mr. Nilay Chakraborty,
Mr. Biswarup Royfor the State.

The petitioner has been charged under the provisions of the Narcotic Drugs and Psychotropic Substances Act. Allegedly, commercial quantity of contraband items (Phensedyle and Yaba Tablets) was recovered from her possession.

The petitioner says that at the time of search and seizure no lady constable was present. Accordingly, the search and seizure was in contravention of law.

We find from the case diary that at least one woman constable, namely Ranju Kumari, recorded her statement under Section 161 of the Code of Criminal Procedure to the effect that

she searched the petitioner and recovered contraband items of commercial quantity from her. Whether or not this is a correct statement is a triable issue.

Since commercial quantity of contraband items is involved, in view of the restriction in Section 37 of the NDPS Act, we are not inclined to allow the petitioner's prayer for bail.

The application for bail is, accordingly, rejected.

CRM (NDPS) No. 2 of 2022 is dismissed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Aniruddha Roy, J.)

(Arijit Banerjee, J.)