

14.06.2022
03
Ct. No. 01
KAUSHIK
Allowed

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

C.R.M. (NDPS) 133 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kotwali** Police Station Case No. **873** of **2021** dated **05.09.2021** under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Sankar Roy @ Sankar Ray & Ors.

..... petitioners

Mr. Hillol Saha Poddar
Ms. Mousumi Das

.....for the petitioners

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Biswarup Roy

.....for the State

Pursuant to the order dated June 10, 2022, the Inspector General of Police, North Bengal is present. He is apprised of the shortcomings perceived pertaining to the criminal investigations conducted by the police and also the production of the case diary with regard to the application for bail and anticipatory bail before Court.

Learned advocate appearing for the petitioners draws the attention of the Court to the seizure list and to the arrest memo and submits that the arrest was done in breach of the guidelines of the Hon'ble Supreme Court from time to time including those recorded in D.K. Basu's case. He submits that, no independent person witnessed the arrest. He refers to the seizure list and submits that, there are grounds of justifiable

doubts as to the veracity of the seizure list. The seizure is shown to take place past mid night. The seizure list is a computer print out. The seizure was made at a public place. It is inconceivable that the police were in possession of a computer and a printer to take a print out of the seizure list prepared at the public place and obtain the signatures of the petitioners thereon. He contends that the petitioners were falsely implicated. The entire process was done at the police station and, therefore, there is a lack of independent witness in the arrest memo. The seizure list is another indication of the entire episode taking place at the police station.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary.

Prima facie, on the materials available on record in the case diary, it appears that there are some substances on the contentions of the petitioner with regard to the arrest memo and the seizure list. Consequently, we are of the view that the petitioners are able to overcome the restrictions under Section 37 of the NDPS Act, 1985. We, therefore, grant bail to the petitioners.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the **learned Additional Sessions Judge, 1st Court under NDPS Act, Coochbehar**, subject to the condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not

intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioners shall meet the Investigating Officer once in a week till the conclusion of the investigation.

In the event the petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioners without further reference to this Court.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)