

06.09.2022

Item No.6

Ct.No.01

F.B/gsd

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

C.R.M (NDPS) 268 of 2022

In Re: An application for bail under Section 439 Cr.P.C in connection with CR (NDPS) Case No. 13/2022, Siliguri P.S. Case No. 145 of 2022 dated 24.01.2022 under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 corresponding with CR (NDPS) Case No. 13 of 2022.

In the matter of : **Ashok Kumar Gond**

... Petitioner.

Mr. H.S. Poddar

... For the Petitioner.

Ms. Aditi Shankar Chakraborty

Mr. Aniruddha Biswas

... For the State.

Party/parties is/are represented in the order of their name/names as printed above in the cause-title.

This is an application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with CR (NDPS) Case No. 13 of 2022 of Siliguri P.S. Case No. 145 of 2022 dated 24th January, 2022 under Sections 21(c) of the NDPS Act, 1985.

The police has seized 600 gms of Brown Sugar from the possession of the accused and subsequently the accused was

arrested and a case was initiated against the petitioner. After the investigation, police has filed charge-sheet against the accused for the said offence.

Learned Counsel for the petitioner submits that while making the Memo of Arrest, the police has violated the provisions of Section 41B of the Cr.P.C. by not obtaining the signature of the family member or the independent witness in the said Memo of Arrest.

The petitioner also submits that the seizure was made at the mid night in violation of the provisions of law.

The petitioner further submits that the investigation has been completed and charge-sheet has been filed and no purpose would be served detain the petitioner in the custody by further.

Learned Counsel for the State raises objection and submits that the police has seized the said contraband from the possession of the petitioner in presence of the independent witnesses and during the investigation, it has been established that the petitioner was in possession of the commercial quantity of contraband.

Learned Counsel for the State further submits that the accused is the resident of Jhonpur, Uttar Pradesh and if he is granted bail, there is every chance of absconding of the petitioner.

Considering the submissions of the respective parties, perusing the Case Diary and the materials on record, this Court finds that the commercial quantity of contraband have been seized from the possession of the accused. The police has already completed

the investigation and Charge-sheet has been filed. More so, the accused is the resident of Jhonpur, Uttar Pradesh.

Considering all the above aspects, this Court finds that this is not a fit case to release the petitioner on bail.

The prayer for bail of the petitioner is accordingly **Rejected**.

CRM (NDPS) 268 of 2022 is **disposed of** accordingly.

All parties are to act on a server copy of this order from the official website of this court.

Urgent Prostate certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)