

13.09.2022

Item No.12

Ct.No.1

K.B/b.r.

Rejected

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Appellate Jurisdiction

CRM (NDPS) 275 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure arising out of Sahebganj P.S. Case No. 77 of 2022 dated 03.03.2022 under Section 21(c)/18(c)/29 of the NDPS Act.

And

In the matter of: **Hasmat Ali and Sariful Islam**

....Petitioners

Mr. Jagriti Mishra
Mr. Subham Gupta
Mr. Debayan Goswami
Mr. Reshab Kumar

...for the Petitioners

Mr. Kollol Acharjee
Mr. Sourv Ganguly
Ms. Namrata Das.....for the State

This is an application for grant of bail in connection with Sahebganj P.S. Case No. 77 of 2022 dated 03.03.2022 under Sections 21(c)/18(c)/29 with added section 22(c) of the NDPS Act, pending before the Learned Additional Sessions Judge, 1st Court, Cooch Behar.

Learned Counsel for the petitioners submits that as per seizure list, the alleged seizure was made on 2nd March, 2022 from 2050 hrs. to 2340 hrs, but the signature of the witness reveals that the witness have signed in the seizure list on 03.03.2022. Learned Counsel for the petitioners further submits that as per the case of the prosecution before the seizure was affected, Section 50 Notice was issued and a seizure list was prepared. In the seizure list also the witnesses have signed by putting the date as 03.03.2022.

By drawing the attention of the said, Learned Counsel for the petitioner submits that from the face of the record, it reveals that BSF has fabricated the case against the petitioners and seizure list prepared by the BSF is manufactured and fabricated. Learned Counsel for the petitioners submits that since their arrest, the petitioners are in custody.

Learned Counsel for the petitioners further submits that the investigation has been

completed, charge sheet has been filed and as such there is no chance of hamper or tamper with the evidence.

Per contra, Learned Counsel for the State submits that the points raised by the petitioners are to be decided during the trial and the ground on which the petitioners have prayed for bail cannot be ascertained, at this stage.

Learned Counsel for the State further submits that the commercial quantity of narcotics was seized from the accused persons and there is a bar under Section 37 of the NDPS Act for grant of bail to the petitioners as the investigation on completion of investigation, charge sheet is filed within the statutory period.

Considered the rival submission of the respective parties, case diary and the materials on record. There is some contradictions with regard to the date appearing at signature of the witnesses in the seizure list.

This Court, at this stage, cannot go into the merit of the case while considering the

application for bail. This Court finds that the investigation has been completed, charge sheet has been filed and the alleged recovery made from the possessions of the petitioners are commercial in nature and thus this Court do not find any merit to grant bail to the petitioners at this stage.

In view of the above, **CRM 275 of 2022**, stands **rejected**.

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

(**Krishna Rao J.**)

(**Subrata Talukdar, J.**)