

10.01.2022
Item no.39.
Court No.1.
AB
(Allowed)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
(Via Video Conference)**

CRM No. 1228 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Jaigaon Police Station Case No.226 of 2020 Dated 13.9.2020 under Section 17(c) of the NDPS Act

And

In the matter of: Bhagirat Barman @ Gobinda Barman & Anr.

.....Petitioners.

Mr. Sudhindra Dasfor the Petitioners.

Mr. A. S. Chakraborty, Id. APP,
Mr. Sourav Gangulyfor the State.

The contraband item involved is about 300 grams of heroin which is commercial quantity.

The petitioners say that nothing was recovered from them. Recovery was from the house of one Mojubul Mia @ Islam. The petitioners happened to be present at that place and their thumb impression was taken on the seizure list.

The State vehemently opposes the prayer for bail.

We have seen the material in the case diary. Prima facie, there is nothing, which implicates these petitioners. Admittedly, there was no recovery from them. The restriction in Section 37 of the NDPS Act would not be attracted in this case. The petitioners have been in custody for one year five months.

On an overall assessment of the facts and circumstances of the case, we are inclined to enlarge the petitioners on bail, but on stringent conditions.

Accordingly, we direct that the petitioners, namely, Bhagirat Barman @ Gobinda Barman and Rafikul Mia @ Munna shall be released on bail upon furnishing a bond of Rs.25,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Jalpaiguri and/or the relevant Court in Charge thereof, and on further conditions that the petitioners shall not enter the jurisdiction of Jaigaon Police Station except for attending Court proceedings and shall provide the address where they shall presently reside to the Officer-in-Charge of the concerned police station. The petitioners shall also meet the Officer-in-Charge of the concerned police station once in a week until further orders.

The petitioners 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.

In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this Court.

The application for bail being C.R.M. No.1228 of 2021 is, thus, allowed.

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.)