

02. 17.10.2022
Ct.28 Tanmoy/TN

Allowed

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE
FROM PRINCIPAL BENCH
(VACATION BENCH)

CRM (NDPS) 340 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with **NDPS Case No. 09 of 2022** arising out of **Alipurduar Police Station Case No. 41 of 2022** dated **15/01/2022** under Section **21(c)** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: - **Suman Chakraborty**
...petitioner.

Mr. Sudip Guha
...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Nilay Chakraborty,
Mr. Biswarup Roy
...for the State.

We have considered the fact that the seizure list which is part of records does not reflect the two witnesses to be independent as per the statutory requirement. This is a significant fact which, according to the learned Counsel appearing for the petitioner, was not placed before the co-ordinate Bench at the time of rejection on 1st August, 2022.

Learned Advocate appearing for the State objects to the prayer for bail.

According to our view, the petitioner has hence been able to rebut the statutory presumption under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

CRM (NDPS) 340 of 2022 is, accordingly, allowed.

The petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties each of like amount, one of who shall be local and to the satisfaction of the learned Judge, Special Court (under NDPS Act), Jalpaiguri. The petitioner shall not intimidate witnesses or tamper with evidence. The petitioner shall also co-operate with the investigation and leave the local jurisdiction only upon obtaining leave of the Authorities.

We also take note that the petitioner has been in custody for 330 days.

We further make it clear that if the petitioner fails to comply with the above conditions, the learned Court below shall be at liberty of cancelling the bail without further reference to this Court.

(Saugata Bhattacharyya, J.) (Moushumi Bhattacharya, J.)