

26.10.2023
Court No.8
(D/L 03)
(AK)

CRM (NDPS) 1767 OF 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 25.10.2023 in connection with Magrahat Police Station Case No.241 of 2022 dated 20.06.2022 under Section 20(b)(ii)(c) of the N.D.P.S. Act, 1985.

And

In the matter of: **Bapi Naskar and another**

... Petitioners.

Mr. Joy Chakraborty
Mr. Sandip Dinda

... for the petitioners.

Md. Anwar Hossain
Ms. Debjani Sahu

... for the State.

1. The petitioner has been in custody for over one year and only one out of nineteen witnesses has been examined so far. The material on record also shows a clear discrepancy in the written complaint dated 20.06.2022.

2. The date of occurrence of the offence is mentioned as 20.06.2021 but the GDE date is mentioned as 20.06.2022. The written complaint also makes it clear that the prosecution has not complied with Section 42(2) of the NDPS Act which requires an officer to take down the information in writing under Section 42(1) recording the grounds for his belief under the proviso to Section 42(1) and to communicate the same to his immediate superior officer within seventy two hours from the time of such recording. The written

complaint states that the complainant communicated the matter to the OC through whatsapp call.

3. Considering the admitted violation of Section 42(2) of the NDPS Act apart from the discrepancies in the written complaint and also in the quantity of contraband articles seized, we are inclined to allow the prayer for bail.

4. We accordingly, direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/-(rupees ten thousand only) each with two sureties each of like amount, one of who must be local and to the satisfaction of the learned CJM, South 24 Parganas at Alipore. The petitioners shall not induce witnesses or influence them or tamper with evidence. The petitioners shall also make themselves available for the trial as and when the petitioners are required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.

C.R.M.(NDPS) 1767 of 2023 is accordingly allowed and disposed of in terms of the above.

(BIBHAS RANJAN DE, J.)

(MOUSHUMI BHATTACHARYA, J.)