

D/L. 33
January 31, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 10 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with NDPS Case No. 67 of 2021 arising out of NJP Police Station Case No. 986 of 2021 dated 29.08.2021 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Sanjay Roy @ Sanchar Roy

.... Petitioner

Mr. Sandip Dutta

... for the petitioner

Mr. Abhijit Sarkar,
Mr. kallol Nag

... for the State

Learned counsel for the petitioner argues that Column 10 of the memo of arrest was left vacant in the present case in patent violation of Section 41B of the Code of Criminal Procedure, which is mandatory in nature as per well established judicial opinion.

Learned counsel for the State, by placing reliance on the seizure list in the present case, submits that huge quantities of contraband articles were found from the petitioner and opposes the prayer for bail.

Be that as it may, since the petitioner has validly pointed out a chink in the process of seizure and arrest, the petitioner ought to be granted the benefit of bail.

Accordingly, CRM (NDPS) 10 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each,

one of whom must be local, to the satisfaction of the learned Judge, Special Court (under NDPS Act), at Jalpaiguri.

The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.

The petitioner, further, shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

We are observing that in almost each and every case, particularly in the District of Jalpaiguri, arising out of the NDPS Act, Column 10 of the memo of arrest is being either left vacant or filled improperly, which gives an unnecessary excuse to the petitioner to obtain bail, even if the bail could have been refused otherwise.

It is expected that such procedural defect shall be cured by the authorities as expeditiously as possible.

The Registry shall communicate a copy of this order at the earliest to the Inspector General of Police, West Bengal.

CRM (NDPS) 10 of 2023 is disposed of.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)