

D/L. 35
February 1, 2023
MNS

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

CRM (NDPS) 20 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. 31 of 2021 arising out of NJP Police Station Case No. 616 of 2021 dated 15.06.2021 under Sections 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Arjun Sutradhar

.... Petitioner

Mr. Sandip Dutta,
Mr. Swarup Mondal

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Arjun Chowdhury

... for the State

Learned counsel for the petitioner argues that the mandatory provision of Section 41B of the Code of Criminal Procedure has not been complied with. Hence, the petitioner is argued to be entitled to bail despite the presumption of Section 37 of the NDPS Act.

Learned counsel for the State opposes the prayer for bail.

We find from the records that the seizure list contains the signature of independent witness. However, apparently, memo of arrest does not contain such signature of any independent witness. Hence, the presumption raised under Section 37 of the NDPS Act is diluted to the above extent.

As such, CRM (NDPS) 20 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.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)