

AD-37
Ct No.01
Jalpaiguri
02.02.2023
TN

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

CRM (NDPS) 22 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. **46 of 2022** arising out of **Cooch Behar Kotwali** Police Station Case No. **486 of 2022** dated **10.05.2022** under Section **21(C)** of the **NDPS Act**.

And

In the matter of: **Sambaru Mahato**

.... petitioner

Mr. Hillol Saha Podder

... for the petitioner

Mr. Arun Kumar Sarkar,
Mr. Aniruddha Biswas

... for the State

The petitioner alleges that the sole signatory in the memo of arrest was part of the raiding team. Learned counsel for the petitioner, as such, contends that the mandatory provision of Section 41B of the Code of Criminal Procedure has been violated in the present case. Moreover, the petitioner is in custody for about 8 months.

Learned counsel for the State opposes the prayer for bail and submits that the provisions of law were substantially complied with, since there are signatures of independent witnesses in the seizure list.

However, in view of the discrepancy of the signatories to the seizure list and the memo of arrest, there is *prima facie* presumption of contravention of Section 41B of the CrPC.

Accordingly, CRM (NDPS) 22 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), First Court at Cooch Behar.

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.)