

D/L. 35
February 6, 2023
MNS

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

CRM (NDPS) 30 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2023 in connection with CR (NDPS) Case No. 34 of 2016 arising out of NCB Crime No. 31/NCB/KOL/2016 dated under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Vijay Gurung and another

.... Petitioners

Mr. Hillol Saha Podder

... for the petitioners

Mr. Sudipto Kumar Mazumdar

Mr. Sourab Das

... for the NCB.

Learned counsel for the petitioners submits that the petitioners are in custody for more than six years. It is further contended that the charges were framed as long back as on April 4, 2017.

Learned Deputy Solicitor General appearing for the NCB controverts the submissions made on behalf of the petitioners and strongly objects to bail being granted to the petitioners. It is submitted that the petitioners took adjournment before the court below at the time of trial.

While refuting such allegation, learned counsel for the petitioners submits that the petitioners took adjournment only on one occasion and that the order sheet has been annexed to the present petition.

Despite keeping in mind the strict rigours followed in a case under the NDPS Act, we are of the opinion that since the petitioners are already in custody for more than six years and only two witnesses have been examined till now, thereby casting uncertainty on the conclusion of the trial, the petitioners are entitled to the benefit of bail.

Accordingly, CRM (NDPS) 30 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnish bond of Rs.10,000/- each, 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 Siliguri.

The petitioners 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 petitioners 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.)