

AD-28
Ct No.01
Jalpaiguri
07.02.2023
TN

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

CRM (NDPS) 50 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.01.2023 in connection with Jalpaiguri Kotwali Police Station Case No. 331 of 2022 dated 26.05.2022 under Section 21(c) of the NDPS Act, corresponding to NDPS Case No. 70 of 2022.

And

In the matter of: Nur Islam @ Nur Mahammad and another
.... petitioner

Mr. Sudip Guha

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Arjun Chowdhury

... for the State

The petitioners are in custody for more than 8 months. It is further submitted that the provisions of Section 41B of the Code of Criminal Procedure were not complied with duly.

It is candidly submitted by learned counsel for the petitioners, however, that the previous bail application of the petitioner no.1 was rejected and the bail application of the second petitioner was not pressed.

Learned counsel for the State opposes the prayer for bail.

However, taking into consideration the fact that the provisions of Section 41B of the Code of Criminal Procedure might not have been complied with properly in the present case, the presumption under Section 37 of the NDPS Act does not operate as a bar.

Accordingly, CRM (NDPS) 50 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnish individual bonds 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), Jalpaiguri. The sureties may be common for all the petitioners.

The petitioners shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend on each day of trial.

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 persons 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.)