

D/L. 32
February 8, 2023
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 70 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.01.2023 in connection with CR (NDPS) Case No. 53 of 2022 arising out of Seizure Case No. 01/CL/NDPS/DRI/SLG/2022-223 dated 29.04.2022 under Sections 20/43(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Ram Mohan Deka and another

.... Petitioners

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioners

Mr. Sourav Kar

... for the Union of India.

Mr. Ratan Banik

...for the DRI.

Learned counsel for the petitioners raises certain salient objections to the methodology of arrest and seizure adopted by the respondent authorities.

First, although the petitioner was arrested at around 9.50 p.m., the seizure list was prepared at around 1.30 a.m. and the memo of arrest was prepared at around 11.15 a.m. on the next date. It is submitted that the entire alleged seizure took place in the office of the respondent authorities, thereby vitiating the entire process altogether.

It is submitted by learned counsel for the respondent authorities that the place where the seizure was initially made was not “conducive” to arrest. As such, the seized vehicle was taken to the office and subsequently the arrest and seizure were effected.

However, we find from the submissions of both sides that there is patent illegality on the face of the record in the *modus operandi* adopted by the respondent authorities in the entire process of seizure and arrest. As such, the petitioners are entitled to get the benefit of bail

Hence, CRM (NDPS) 70 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), at Siliguri. The sureties may be common in all the petitioners.

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.)