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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 78 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.01.2023 in connection with Bhaktinagar Police Station Case No. 619 of 2021 dated 06.06.2021 under Sections 21(c)/22(c)/25 of the NDPS Act, 1985.

In the matter of : Alomgir Sekh and others
... petitioners

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik
...for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas
.....for the State.

Heard learned counsel appearing for the parties.

Learned counsel appearing for the petitioners contends that the petitioners are in custody since June 06, 2021, that is, for about one year, eight months and three days. It is further contended that no independent witness signed the seizure list on the flimsy ground that lockdown was prevalent. Moreover, all the signatories to the seizure list were part of the raiding team.

Learned counsel appearing for the State opposes the prayer for bail and submits that, apart from the fact that due to lockdown no witness could be obtained, the requirement

of independent witness is merely a guideline and not absolutely mandatory.

Upon hearing learned counsel for the parties, we are of the opinion that sufficient *prima facie* doubt has been cast by the petitioners on the seizure. Hence, we are inclined to grant bail to the petitioners also in view of their period of custody till now.

Accordingly, CRM (NDPS) 78 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish individual bond of Rs. 10,000/- (Rupees Ten Thousand) 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 petitioners shall not leave the territorial jurisdiction of the trial court during the entire period of trial and attend trial on each and every date. The sureties may be common in respect of all the petitioners.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)