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Calcutta High Court
In the Circuit Bench at Jalpaiguri

CRM (NDPS) 79 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 Jalpaiguri Kotwali Police Station Case No. 216 of 2022 dated 11.04.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985.

In the matter of : Subha Roy @ Subh and another
... petitioners

Mr. Sudip Guha
...for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Subhasish Misra
.....for the State.

Heard learned counsel appearing for the parties.

Learned counsel appearing for the petitioners contends that the petitioners are already in custody for about 303 days and the amount of contraband articles allegedly recovered from the petitioners are below the commercial quantity. That apart, it is argued that the commencement and end of the search and seizure process do not find place in the First Information report. Moreover, samples were not sent for chemical examination within 72 hours as per law.

Learned counsel appearing for the State opposes the prayer for bail and submits that out of the 11 accused, only

7, including the present two petitioners, have been arrested, whereas four accused persons are still absconding. Hence, it is submitted, the prayer for bail ought to be refused.

However, in view of the mitigating circumstances as alleged by the petitioners and apparent from the records, as also and keeping in mind that the charge sheet has already been filed in the matter, we are inclined to grant bail to the petitioners.

Accordingly, CRM (NDPS) 79 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. Moreover, the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)