

D/L. 34
February 10, 2023
MNS

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

CRM (NDPS) 116 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.01.2023 in connection with Alipurduar Police Station Case No. 95 of 2022 dated 18.02.2022 under Sections 20(b)(ii)(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 subsequently Charge Sheet submitted vide Charge Sheet No. 380 of 2022 dated 07.08.2022 for the alleged offence under Sections 20(b)(ii)(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Bishu Deb Barma and another

.... Petitioners

Mr. Jagriti Mishra,
Mr. Naser Ali,
Mr. Debayan Goswami,
Mr. Subham Gupta,
Mr. Reshab Kumar,
Mr. Raj Kumar Mitra,
Ms. Ananya Bhattacharya

... for the petitioners

Mr. A. S. Chakraborty,
Mr. Aniruddha Biswas

... for the State.

Learned counsel for the petitioners has made out a strong *prima facie* case as to violation of Section 41B of the Code of Criminal Procedure, inasmuch as one of the members of the raiding party, that is, a constable signed as the alleged independent witness in the memo of arrest. The same discrepancy has been repeated in the seizure list as well.

Learned counsel appearing for the State opposes the prayer for bail.

However, keeping in view the *prima facie* contravention of Section 41B of the Code of Criminal Procedure, we are inclined to grant bail to the petitioners.

Accordingly, CRM (NDPS) 116 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnish individual 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), 1st Court, Jalpaiguri. The sureties may be common in respect of 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.)