

D/L. 36
February 10, 2023
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 119 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.01.2023 in connection with Maynaguri Police Station Case No. 421 of 2021 dated 23.08.2021 under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Sudeb Sarkar and others

.... Petitioners

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

... for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Arjun Chowdhury

... for the State.

Learned counsel for the petitioners contends that insofar as the petitioner nos. 2 and 3 are concerned, the vehicle in which they were allegedly travelling contained 20 kgs. of 'ganja', which is not above the commercial quantity.

In so far as the petitioner no. 1 is concerned, it is submitted, the FIR indicates that the concerned weighing machine, on which the contraband articles were allegedly weighed, was seized much before the contraband articles themselves were seized. As such, it casts a doubt as regards the quantum of contraband seized by the authorities. Moreover, it is submitted that the petitioners are in custody for 532 days.

Learned counsel appearing for the State opposes such contentions and argues that the points raised by the petitioners are the subject-matter of trial.

However, upon a consideration of the points raised by the petitioners, we are satisfied on the score that the petitioners are behind the bars for a sufficiently long period. That apart, an arguable question has been raised by the petitioners with regard to the process of seizure.

Accordingly, CRM (NDPS) 119 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 Additional District & Sessions Judge, 1st Court (Special Court under NDPS Act), at Jalpaiguri.

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.)