

09.06.2023

Ct.No. 1

Item No. 20

Sb / Saswata

Allowed

***CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI***

C.R.M. (NDPS) 392 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Kharibari PS case no. 391 of 2021 dated 04.12.2021 under Sections 21(c)/22(c) of the NDPS Act, 1985.

And

In the matter of : **Md. Sabir**

...petitioner

Ms. Rima Sarkar

Ms. Sidhi Sethia

...For the petitioner

Mr. Niloy Chakraborty

Mr. Subhasis Misra

....For the State

1. Learned Counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case and nothing has been recovered from the petitioner. It is submitted that the statements made in the FIR are improbable as the owner of the premise has neither been mentioned in the seizure list nor in the FIR.
2. Learned Counsel for the State opposes the prayer for bail and submits that the seizure list does not mention the name of the owner of the premise, wherefrom the contraband article has been seized.

3. Considering the materials available in the case diary and having regard to the fact that place of seizure has not been disclosed and there is non-mentioning of independent witness in whose presence the seizure list was made, we are of the opinion that the petitioner has been able to make out a reasonable ground for believing that he is not guilty of such offence and thereby rebutting the presumption under Section 37 of the NDPS Act. The prayer of bail is thus **allowed** on the following conditions:-

- i. We direct the petitioner to be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local to the satisfaction of Learned Judge, Special Court under NDPS Act, Siliguri.
- ii. The petitioner shall attend each and every date of trial.
- iii. The petitioner shall not leave the jurisdiction of the jurisdictional Court without prior permission of the Court.
- iv. The petitioner shall not intimidate the witnesses and tamper with the evidence in any manner whatsoever.

- v. In the event of non-compliance of any of the conditions enshrined above, the bail shall stand automatically cancelled without further reference to this Court.
4. CRM (NDPS) 392 of 2023 is, accordingly, **disposed of**.
5. All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)