

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

17.08.2023
Court No.1
Item. 8
(sg/cm)

CRM(NDPS) 553 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Bagdogra Police Station Case No. 569 of 2021 dated 01.12.2021 under Sections 21 (c) of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of: MD. HASIBUL SK

.Petitioner.

Ms. Supriya Debnath

For the Petitioner.

Mr. Abhijit Sarkar
Mr. Kallol Nag

For the State.

1. Admittedly, Column 10 of the Memo of Arrest is blank. This is in violation of not only the guidelines of the Supreme Court in *D.K. Basu vs. State of West Bengal* in *AIR (1997) 1 SCC 416*, but also to Section 41B of the Cr.P.C. which under Clause (b) requires the police officer making arrest to prepare a Memorandum of Arrest which shall be attested by at least one witness who is a family member of the arrestee or a respectable person of the locality where the arrest is made.
2. We are accordingly of the view that the admitted infraction of the Cr.P.C. as well as the guidelines laid down by the Supreme Court are enough to rebut the statutory restriction under Section 37 of the NDPS Act.
3. We accordingly allow the prayer for bail.

4. The petitioner shall accordingly 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 who must be local, to the satisfaction of the learned Judge, Special Court, 2nd Court under NDPS Act, Siliguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
5. CRM(NDPS) 553 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS,J.)

(MOUSHUMI BHATTACHARYA,J.)