

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

22.08.2023
Court No.1
Item. 14
(Suvendu)

CRM(NDPS) 573 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Pradhannagar Police Station Case No. 593 of 2021 dated 06.08.2021 under Sections 20(ii)(c) of the NDPS Act, 1985.

And

In the matter of: Bapi Singh @ Bappi Singh

.Petitioner.

Mr. Arunava Paul

For the Petitioner.

Mr. Tapan Bhattacharjee
Mr. Subhasish Misra

For the State.

1. Column 10 of the Memorandum of Arrest contains a blank space. The I.O. who is present in Court has no explanation for the same.
2. We are of the view that this is contrary to the judgment of the Supreme Court in *D.K. Basu Vs. State of West Bengal*, (1997) 1 SCC 416 which was subsequently inserted in the form of Section 41B (b) of the Cr.P.C. with effect from 01.11.2010.
3. Section 41B mandates the police officer making arrest should prepare a Memorandum of Arrest with the attestation of a family member of the arrestee or a respectable person of the locality from where the arrest is made.

4. Apart from the above, we also note that the supplementary charge-sheet was filed after one year from initiation of the case along with CFSL Report.

5. We are hence of the view that the above facts are sufficient to rebut the statutory restriction under Section 37 of the NDPS Act.

6. The prayer for bail is hence allowed.

7. We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 20,000/- (Rupees twenty thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Additional Sessions Judge, Special Court (Under NDPS Act), 2nd Court at Siliguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall report to the I.O. of the concerned Police Station once every fortnight and shall not leave the local limits of the local police station without leave of the learned Special Court (Under NDPS Act) at Siliguri. The petitioner shall also make himself available for the each date of the trial and also as and when the petitioner is required.

8. CRM(NDPS) 573 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)

