

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

18.08.2023
Court No.1
(D/L 14)
(AK)

CRM (NDPS) 583 OF 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 10.08.2023 in connection with New Matigara Police Station Case No.259 of 2023 dated 06.04.2023 under Sections 21(c)/29 of the N.D.P.S. Act, 1985.

And

In the matter of: **Najara Begam @ Najra Begum and others**
... Petitioners.

Mr. Kumar Shantanu

... for the petitioner.

Mr. Kallol Acharjee
Ms. Sukanya Adhikary

... for the State.

Admittedly, two lady constables put their signatures in column 10 of the Memorandum of Arrest for petitioner nos.1 and 2. We find that the signature of any independent witness in column 10 of the Memorandum of Arrest for the third petitioner.

The guidelines given by the Supreme Court in *D.K. Basu vs. State of W.B.* reported at (1997) 1 SCC 416 were subsequently inserted in the form of Section 41B to the Code of Criminal Procedure, 1973.

Section 41(B)(b) mandates the signature of a family member of the arrestee or a respectable member of the locality from where the arrest is made. Since the signatures of the lady constables are in admitted violation of the statutory provision, we are inclined to allow

the prayer for bail for the petitioner nos. 1 and 2. The prayer for bail of the petitioner no.3 is rejected.

Najara Begam @ Najra Begum and Khateja Nesha @ Kamija are accordingly released on bail with the following conditions.

The petitioner nos. 1 and 2 shall be released on bail upon furnishing a bond of Rs.10,000/-(rupees ten thousand only) each with two sureties each of like amount, one of who must be local and to the satisfaction of the learned Additional Sessions Judge, Special Court (NDPS Act), 2nd Court, Siliguri. The petitioners shall not induce witnesses or influence them or tamper with the evidence. The petitioners shall also make themselves available for the trial as and when the petitioners are required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.

C.R.M.(NDPS) 583 of 2023 is accordingly partly allowed to the extent of the first and the second petitioners and rejected to the extent of the third petitioner.

C.R.M.(NDPS) 583 of 2023 is disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)