

22.08.2023
Court No.1
Item No.20
(sg/KS)

CRM (NDPS) 591 of 2023

And

Mr. Partha Pratim Sarkar
Mr. Sudip Guha

For the Petitioner.

Mr. Abhijit Sarkar
Mr. Aniruddha Biswas

For the State.

1. The memorandum of arrest is admittedly by a raiding party, namely a constable, whose name also features in the charge-sheet. This is also the stand of learned counsel appearing for the prosecution.
2. As held in other orders, the memorandum of arrest must be signed by a family member of the arrestee or a respectable person of the locality from where the arrest is made. This is the statutory mandate of Section 41B of the Code of Criminal Procedure pursuant to the judgment of the Hon'ble Supreme Court in *D. K. Basu* reported in *(1997) 1 SCC 416*.

3. We are accordingly of the view that the above circumstances are sufficient to rebut the statutory restrictions under Section 37 of the NDPS Act.
4. The learned Trial Court will however consider the import of the judgment reported in *2011 Vol.3 SCC 521 (Journal Singh Vs. State of Punjab)*.
5. 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, under NDPS Act, 1st Court, Jalpaiguri. 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.
6. CRM (NDPS) 591 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)