

23.08.2023
Court No.1
Item No.6
(sg/KS)

CRM (NDPS) 592 of 2023

And

Ms. Kakali Bose
Mr. Akhik Biswas
Mr. Sudip Banerjee

For the Petitioner.

1. There are several surprising facts which have been placed before us.
2. Learned counsel appearing for the prosecution has been kind enough to assist the Court with regard to the relevant dates.
3. The alleged narcotic substance was seized from the petitioner on 5th September, 2021 and was sent for chemical examination on 9th September, 2021 through the concerned Magistrate. The inventory of the substance was however done on 16th September, 2021 by the concerned Magistrate.

4. Learned counsel appearing for the prosecution submits that the subsequent inventory was done on a second batch of alleged narcotic substance seized from the petitioner.
5. Learned counsel appearing for the State objects to the prayer for bail.
6. We find the procedure adopted to be in contravention of Section 52A of the NDPS Act. Sub-Section (2) consisting of clauses (a), (b) and (c) which cast an obligation on a Magistrate to certify the correctness of the inventory, take photographs and certify the photographs as to and allowing an drawing up of samples of the drugs/substances in the presence of the Magistrate and certifying the correctness of the list of the samples.
7. The admitted facts are that the certificate under Section 52A(2) was done after the seized substances were sent for chemical examination. We find this to be a statutory infraction and sufficient to rebut the statutory restrictions under Section 37 of the NDPS Act.
8. We accordingly allow the prayer for bail.
9. 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 Special Judge, under NDPS Act, 2nd Court, 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.

10. CRM (NDPS) 592 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)