

AD-42
Ct No.01
Jalpaiguri
12.09.2023
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 615 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.08.2023 in connection with NJP Police Station Case No. 204 of 2023 dated 06.03.2023 under Sections 20(b)(ii)(C)/23(C) of the NDPS Act, 1985.

And

In the matter of: **BHASKAR SAHA @ BHASKAR SAH AND ANR**

Ms. Jagriti Mishra,
Mr. Naseer Ali,
Ms. Mrinmayee Das,

... for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Chattu Roy

... for the State

1. At the outset, learned counsel for the State vehemently opposes the prayer for bail, primarily on the ground the allegations levelled are under the NDPS Act, raising presumption under Section 37 of the said Act.
2. Learned counsel for the petitioner points out to several discrepancies in the FIR lodged against the petitioner as well as the seizure list. For example, the date mentioned in the first page of the FIR is March 6, 2022, whereas the alleged incident occurred in 2023. In the second page of the FIR, it is mentioned that there were four persons who are apprehended, whereas in reality there were five persons as it

appears from the other portions of the FIR itself. Thirdly, in the third page, the FIR mentions regarding apprehension of brown sugar whereas the allegation is one regarding ganja. Learned counsel has also pointed out several other discrepancies in the seizure list as well as FIR, including certain incidents of overwriting in the seizure list which palpably cast doubt on the process of apprehension of the petitioner, thereby mitigating the presumption otherwise raised under Section 37 of the NDPS Act.

3. In the absence of such presumption, there is no reason why the petitioner should be kept in incarceration indefinitely.
4. In such view of the matter, CRM (NDPS) 615 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court(NDPS Act), 1st Court Jalpaiguri.
5. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
6. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to

dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)