

23.08.2023
Court No.1
Item No.22
(sg/KS)

CRM (NDPS) 628 of 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with New Jalpaiguri Police Station Case No.64 of 2022 dated 12.01.2022 under Sections 21(c)/22(c)/ 23 (c)/ 25/ 27A/ 28/ 29/ 30 of the Narcotic Drugs and Psychotropic Substances Act.

In the matter of:

Mohd Hifjur Rahaman @ Hifjur Rahaman

.Petitioner.

For the Petitioner.

For the State.

1. Column 10 of the memorandum of arrest is admittedly blank. This is contrary to the mandate of Section 41B of the Code of Criminal Procedure, which was inserted in the Act of 2009 with effect from 01.11.2010 pursuant to a judgment in *D.K. Basu Vs. State of West Bengal* reported in (1997) 1 SCC 416.
2. Section 41B casts specific obligations on the part of the police officer making the arrest which includes signature of a family member of the arrestee or a respectable person of the locality from where the arrest is made.

3. Learned counsel appearing on behalf of the prosecution has no answer to the admitted blank space in Column 10 of the Memorandum of Arrest.
4. We are accordingly of the view that the circumstances of the case are sufficient to rebut the statutory restrictions under Section 37 of the NDPS Act.
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, 2nd Court at 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. We also note that the petitioner has been in custody from 12th January, 2022 and none of the witnesses of the sixteen have been examined till date. Since the Court has been informed that the petitioner is a resident of Manipur, the petitioner shall not leave the local area of the jurisdictional police station without leave of the learned Trial Court.
7. CRM (NDPS) 628 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)

