

AD-59
Ct No.01
Jalpaiguri
12.09.2023
SP

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

CRM (NDPS) 650 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **18.08.2023** in connection with **Siliguri** Police Station Case No. **1195** of **2021** dated **29.09.2021** under Section **21(c) and 22(c) of the NDPS Act, 1985.**

And

In the matter of: MD PAPPU@DIPANKAR @ D AND ANR

.... petitioners

Ms. Rima Sarkar
Mr. Sidhi Setha

... for the petitioners

Mr. Aditi Shankar Chakraborty
Mr. Kallol Nag

... for the State

1. Learned counsel for the State vehemently opposes the prayer for bail.
2. Learned counsel for the petitioners argues that the petitioner is entitled to bail on several aspects. First, Section 52 A of the NDPS has not been complied with in so far as the samples of the articles were sent on October 4, 2021 and received on October 5, 2021 for FSL report, whereas the

inventory certification was done only on October 7, 2021.

That apart, the provisions of Section 50 of the NDPS Act were allegedly not complied with as well.

3. In any event, in view of the contravention of Section 52A, the presumption under Section 37 of the NDPS is diluted sufficiently.
4. That apart, the petitioners are already in custody for more than one year and the petitioner no.1 was only 19 years old at the time of apprehension and the petitioner no.2 is a lady. Keeping such factors in consideration, the petitioners are entitled to bail.
5. In such view of the matter, CRM (DB) 650 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish bond of Rs.10,000/- for each of the petitioners, with two sureties (who may be common for both petitioners) of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), 2nd Court at Siliguri.
6. The petitioners 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.
7. Further, the petitioners 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.)