

13.09.2023

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***Calcutta High Court  
In the Circuit Bench at Jalpaiguri***

**CRM (NDPS) 676 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.08.2023 in connection with Matigara Police Station Case No. 1165 of 2020 dated 16.11.2020 under Sections 17(c)/23(c) of the NDPS Act, 1985.

In the matter of : Situ Sk and others

... Petitioners

Mr. Arunava Paul

...for the petitioners

Mr. Niloy Chakraborty,  
Mr. Arjun Chowdhury

.....for the State.

1. Learned counsel appearing for the petitioners argues that the provisions of Section 52A of the NDPS Act were contravened insofar as the samples were sent for examination prior to the certification of inventory.
2. The learned counsel appearing for the State opposes the prayer for bail and submits that there were several rejections in the past of similar prayers of the petitioners, lastly on March 01, 2023. That apart, it is argued that 500 grams of brown sugar, that is, heroin, was recovered from the petitioners.
3. Insofar as the previous rejections are concerned, the first was on February 27, 2023, when a coordinate Bench

recorded the statement of eye-witnesses and contemporaneous documents, that is, seizure of 500 grams brown sugar, upon which the Court applied the presumption under Section 37 of the NDPS Act. On March 01, 2023, however, the Court reiterated its observations only on the ground that there were previous rejections of bail prayer. On other two occasions, it is submitted that the petitioners withdrew the application for bail and there was no rejection on merits.

4. Thus, the present issues were never raised by the petitioners before any coordinate Bench previously. Since the issue raised now hits at the root of the seizure and arrest, we are inclined to dilute the restrictions under Section 37 of the NDPS Act in the case of the petitioners.

5. Accordingly, CRM (NDPS) 676 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish bond of Rs. 10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge (NDPS Act) at Siliguri. The sureties may be common in case of all the petitioners. The petitioners shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.

6. Moreover, the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)