

JPD-44
Ct No.01
13.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 696 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.09.2023 in connection with Birpara Police Station Case No. 25 of 2023 dated 02.03.2023 under Sections 21(c)/22(b)/25/29 of the NDPS Act, 1985, corresponding to NDPS Case No. 23 of 2023.

And

In the matter of: Rajib Sharma

.... petitioner

Mr. Joydeep Kanta Bhowmik,
Ms. Bedashruti Bose,
Ms. Rikta Sarkar,
Mr. Sayantan Bhowmik

... for the petitioner

Mr. Aditi Sankar Chakraborty,
Mr. Kallol Nag

... for the State

1. Heard learned counsel for the parties.
2. Although the State opposes the prayer, submitting that there is a strong case made out against the petitioner, we find from the arguments of the petitioner and the materials on record that there was a violation of Section 41B of the Act, insofar as the person who signed as witness in column no. 10 of the Memo of Arrest was also a part of the raiding party, as apparent from the FIR itself.
3. In view of such discrepancy, we are unable to invoke the bar under Section 37 of the NDPS Act. Hence, the petitioner is required to be enlarged on bail.

4. Accordingly, CRM (NDPS) 696 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act)-cum-Additional Sessions Judge, First Court at 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.)