

JPD-25
Ct No.01
18.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (NDPS) 720 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.09.2023 in connection with Pradhannagar Police Station Case No. 339 of 2023 dated 11.05.2023 under Section 20(b)(ii)(c) of the NDPS Act, 1985.

And

In the matter of: Bubai Ghosh @ Chotan

.... petitioner

Mr. Hillol Saha Podder

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Arjun Chowdhury

... for the State

1. Learned counsel for the petitioner argues that the provision of Section 41B of the Code of Criminal Procedure has not been complied with, as such vitiating the process of arrest and seizure.
2. Learned counsel further submits that the alleged independent witness who signed the memo of arrest is not a resident of the locality but hails from a different State.
3. Learned counsel for the respondent-authorities submits that the investigation is still going on and charge-sheet has not been filed. Moreover, the independent witness who signed the relevant papers is at present a resident of the locality, although originally

hailing from a different State. Hence, it is submitted that at this stage, the bail ought not to be granted to the petitioner.

- 4.** We are convinced that at this stage, it would not be prudent to grant bail to the petitioner, particularly in view of the restrictions under Section 37 of the NDPS Act. Moreover, regarding the witness being not of the locality, the same, at best, is an arguable issue which can be canvassed by the petitioner at the trial. Be that as it may, since the investigation is not yet complete, we are not inclined to grant bail to the petitioner.
- 5.** Accordingly, CRM (NDPS) 720 of 2023 is dismissed. However, nothing in this order shall preclude the petitioner from renewing his prayer for bail after the charge-sheet is filed.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)