

AD-55
Ct No.01
Jalpaiguri
20.09.2023
SP

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

CRM (NDPS) 723 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 **Bagdogra** Police Station Case No. **160/2023** dated **15.04.2023** under Section **21(c) of the NDPS Act, 1985.**

	And	
In the matter of: RITU ROY		 petitioner
Mr. Hillol Saha Podder		
Ms. Mousumi Das		... for the petitioner
Mr. Ujjwal Luksom		
Ms. Namrata Day		... for the State

1. Learned counsel for the petitioner argues that in the complaint, it was mentioned that brown sugar was recovered from a ladies' handbag which was carried by one of the other co-accused persons and not the petitioner. The involvement attributed to the petitioner was that the petitioner was standing along with the person from whose person the contraband articles were recovered.
2. As such, it is submitted that the petitioner ought to be granted bail.

3. Learned counsel for the State vehemently opposes the prayer for bail and submits that in the seizure list as well as the FIR, joint recovery from both persons, including the petitioner, was specifically mentioned. That apart, the petitioner has confessed her role in the offence.
4. Learned counsel for the petitioner submits that confession before a Police Officer is not sufficient evidence to indict the petitioner.
5. In view of the glaring discrepancy between the complaint and the seizure list/FIR to the extent that the complaint mentions that the articles were recovered from a different person's handbag, which was carried by the said person and not the petitioner, but the seizure list says the recovery was joint, we are inclined to be of the opinion that doubt is cast upon the process of seizure, sufficient to mitigate the restrictions under Section 37 of the NDPS Act.
6. Hence, CRM (NDPS) 723 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court under NDPS Act, at Siliguri.

7. The petitioner shall not leave the territorial jurisdiction of the trial court and shall meet the Investigating Officer at least once a month throughout the period of investigation.
8. 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.)