

JPD-41
Ct No.01
21.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 743 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 12.09.2023 in connection with NDPS Case No. 96 of 2022 (State vs. Bipul Chandra Barman & Ors.) arising out of New Coochbehar GRPS Case No. 18 of 2022 dated 13.12.2022 under Sections 22(C)/29 of the NDPS Act, 1985.

And

In the matter of: Bipul Chandra Barman and others

.... petitioners

Mr. Arjun Chowdhury,
Ms. Pratusha Dutta Chowdhury,
Ms. Riya Agarwal

... for the petitioners

Mr. Tapan Bhattacharjee,
Mr. Dhiman Sil

... for the State

1. Learned counsel for the petitioners submits that the provisions of Section 41B of the Code of Criminal Procedure (CrPC) were violated. No independent witness signed the memo of arrest. That apart, the recovery was allegedly made from a railway platform in broad daylight but no independent witness signed the documents of arrest. It is, thus, submitted that the petitioners ought to be enlarged on bail.
2. Learned counsel for the State opposes the prayer for bail and argues that huge commercial quantity of contraband was recovered from the petitioners.

3. We find that, in the present case, in view of the contravention of Section 41B of the CrPC, a *prima facie* presumption is created to alleviate the rigours of Section 37 of the NDPS Act.
4. Hence, since charge-sheet has already been filed, the petitioners ought to be granted bail.
5. Accordingly, CRM (NDPS) 743 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish bonds of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act) Coochbehar. The sureties may be common in respect of all the petitioners.
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.)