

D/L. 35.
September 22, 2023.
MNS

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

CRM (NDPS) 766 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Siliguri Police Station Case No. 207 of 2023 dated 22.03.2023 under Sections 21(C)/22(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Nahir Ali and another

.... Petitioners

Mr. Jagriti Mishra,
Mr. Naser Ali,
Ms. Mrinmayee Das

... for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Kallol Nag

... for the State.

1. Learned counsel for the petitioners argues that in the FSL report itself it is mentioned that the samples were sent on March 24, 2023, whereas the certification was done on March 29, 2023, that is, five days after the samples were sent.
2. Such fact, it is argued, vitiates the provisions of Section 52A of the NDPS Act.
3. Learned counsel appearing for the State opposes the prayer for bail.
4. However, keeping in view the submissions of the petitioners, we are of the opinion that there is *prima facie* contravention of Section 52A of the NDPS Act which leads to dilution of the restrictions under Section 37 of the said Act.

5. Accordingly, CRM (NDPS) 766 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnish bond 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 under NDPS Act, Siliguri. 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 the trial on each and every date.
7. 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.)