

22.09.2023

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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 801 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.09.2023 in connection with Siliguri Police Station Case No. 1343 of 2021 dated 21.11.2021 under Sections 21(c)/22(c) of the NDPS Act, 1985.

In the matter of : Subhajit Kar @ Hassy

... petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Sagnik Sankar Sikdar

...for the State

1. Learned counsel for the petitioner submits that the seizure was made on November 21, 2021. The sample was sent for chemical examination on November 24, 2021. However, prayer for certificate of inventory was made subsequently on November 25, 2021 and the certificate was issued on December 14, 2021. It is submitted that in view of the certification having been obtained after the sample was sent, the seizure itself is vitiated.
2. Learned counsel for the State seriously opposes the prayer for bail.

3. We find from the above observations that there is sufficient doubt cast to alleviate the rigours of Section 37 of the NDPS Act. Moreover, keeping in view that the petitioner is in custody since November 21, 2021 and trial has commenced, we are of the opinion that bail should be granted to the petitioner.
4. Accordingly, CRM (NDPS) 801 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 (under NDPS Act), Siliguri. The petitioner shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.
5. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)