

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

09.01.2023
Court No.1
(D/L 10)
(SKB)

CRM (NDPS) 426 OF 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with NDPS Case No.101 of 2021 arising out of New Jalpaiguri P.S. Case No.1191 of 2021 dated 02.11.2021 under Section 20(b)(ii)(c) the N.D.P.S. Act, 1985.

And

In the matter of: **Kanok Barman and another**

... Petitioners.

Mr. Biswarup Roy

... for the petitioners.

Mr. Nilay Chakraborty,
Mr. Aniruddha Biswas

... for the State.

The memo of arrest contents two blank spaces, specifically in the independent witness space as well as the certification that the person arrested has been given the chance to inform a person of his choice of his arrest or detention. We are also take note of the submissions made on behalf of the petitioners that one of the signatures on the seizure list is a person whose name appears as witness in many other matters. The express lacunae in the memo of arrest are considered sufficient to rebut the statutory restriction under Section 37 of the N.D.P.S. Act, 1985. We accordingly allow the prayer for bail.

We accordingly, direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/-(rupees ten thousand only)

each with two sureties each of like amount, one of who must be local to the satisfaction of the learned Additional District and Sessions Judge Court, 1st Special Court (NDPS Act), Jalpaiguri. The petitioners shall not leave the jurisdictional area of the local police station and shall also make themselves available before the concerned court and the police station whenever required for investigation and questioning. The petitioners shall also make themselves available before the trial court on every date of hearing whenever required and shall not intimidate any witnesses or tamper with any evidence in any manner whatsoever.

C.R.M.(NDPS) 426 of 2022 is accordingly allowed and disposed of in terms of the above.

(SIDDHARTHA ROY CHOWDHURY, J.) (MOUSHUMI BHATTACHARYA, J.)