

AD-09
Ct No.01
Jalpaiguri
31.01.2023
TN

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

CRM (NDPS) 452 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.12.2022 in connection with Kharibari Police Station Case No. 30 of 2022 dated 01.02.2022 under Sections 21(C)/22(C) of the NDPS Act, 1985.

And

In the matter of: Meri Soren @ Mari Saren and another
.... petitioners

Mr. Hillol Saha Podder,
Ms. Mousumi Das
... for the petitioners

Mr. Saikat Chatterjee,
Mr. Biswarup Roy
... for the State

The petitioners contend that the stipulations of Section 41B of the Code of Criminal Procedure (CrPC) were not complied with in the present case. No independent witness or any respectable person of the locality was taken as witness while seizing the alleged articles, although the seizure took place in a populated area between 3.30 and 5.00 p.m.

Moreover, the petitioners are already in custody for 364 days.

That apart, it is submitted that column no.10 of the arrest memo was found blank in the present case, by itself raising a suspicion with regard to the arrest.

Learned counsel for the State opposes vehemently the bail prayer of petitioner no.2-Sati Saren and submits that the provisions of the law were substantially complied with while apprehending the

petitioners. However, inasmuch as the petitioner no.1-Meri Soren @ Mari Saren is concerned, it is fairly submitted that she is suffering from severe ailment for which, on humanitarian ground, the prayer for bail is not being opposed seriously.

Be that as it may, we find from the materials on record that the petitioners are justified in arguing that the arrest might have been vitiated in view of the specific stipulations of Section 41B of the CrPC having not been complied with.

As such, CRM (NDPS) 452 of 2022 is allowed, thereby granting bail to the petitioners on condition of furnishing individual 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 (under NDPS Act), Second Court at Siliguri. The sureties in case of both the petitioners may be common.

The petitioners shall comply with the further conditions that they shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall not 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.)

(Rai Chattopadhyay, J.)