

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

07.03.2024
Court No.1
Item. 14
(Suvendu)

CRM(NDPS) 58 OF 2024

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Birpara Police Station Case No. 40/2023 dated 01.04.2023 under Sections 21(c)/25/29 of the NDPS Act corresponding to NDPS Case No. 38 of 2023 before the learned Judge, Special Court (NDPS Act), Jalpaiguri.

And

In the matter of: Hoque @ Rahim Hoque @ Rahim Haque
.....Petitioner.

Mr. Kumar Shantanu
Mr. Amit Sinha

For the Petitioner.

Mr. Aditi Shankar Chakraborty
Ms. Sukanya Adhikary

For the State.

1. The relevant paragraph of the charge-sheet dated 21st September, 2023 states that Afgar Ali and his wife Anju Begam were buying the narcotic drug from different places and selling them in their own house and further that on the date of occurrence both of them were travelling in different vehicles and carried the narcotic substances in the other vehicle which was registered in the name of Afgar Ali.
2. The charge-sheet states that the petitioner before us was found with the seized contraband substance but does not mention where the contraband substances were seized from the petitioner.
3. More importantly, the prayer for Anticipatory Bail of Afgar Ali was allowed by a coordinate Bench on 31st August, 2023 and we are told that Anju Begam was also released on bail –the order has not been placed before us.

4. Considering that both the co-accused whose involvement in the alleged offence finds specific mention in the charge-sheet, has already been released on bail, we are of the opinion that the petitioner should be released on bail as the statutory restriction of Section 37 of the NDPS Act has been rebutted.
5. The prayer for bail is hence allowed.
6. We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), Jalpaiguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
7. CRM(NDPS) 58 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)