

03.05.2024
Court No.01
Item No. 8

Allowed

sg

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

CRM (NDPS) 178 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kharibari Police Station Case No.351 of 2023 dated 09.12.2023 under sections 21(c) of NDPS.

And

In Re: **Bishnu Barman**

Petitioner

Mr. Hillol Saha Podder
Ms. Mousumi Das

For the Petitioner

Mr. Aditi Shankar Chakraborty
Mr. Sourav Ganguly
Mr. Dhiman Sil

For the State

1. The learned Counsel for the petitioner submits before this Court that the seized articles have been sent to the FSL prior to certification of the jurisdictional Magistrate in contravention of Section 52A of the NDPS Act. It is thus submitted that such contravention materially effects the very route of the charge.
2. The learned Counsel for the State, however, opposes the prayer for bail.
3. We have also perused the CD and find sufficient justification in the argument of the learned Counsel of the petitioner. In view of such infraction of the mandate of the legislation, we are of the view that the petitioner is successful in diluting the statutory restriction under section 37 of the N.D.P.S. Act.

4. We direct that the petitioner, namely, **Bishnu Barman**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount each, to the satisfaction of the learned Judge, Special Court, (under NDPS Act), Siliguri, with a condition that the petitioner shall appear before the Investigating Officer of this case twice in a week till the conclusion of the investigation. It is further directed that the accused petitioner shall not leave District Darjeeling till the conclusion of the investigation without the leave of the learned Trial Court and the petitioner shall not tamper with evidence and/or intimidate the witness in any manner whatsoever. In the event of non-compliance of any of the conditions, the learned Trial Court shall issue non-bailable warrant of arrest against the present petitioner
5. The prayer for bail of the petitioner is allowed. CRM(NDPS)/178/2024 is, accordingly, disposed of.
6. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J)

(Partha Sarathi Sen, J)