

03.05.2024
SL No.9
Court No.1
(gc)
(Allowed)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (NDPS) 186 of 2024

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Kalimpong Police Station Case No.85 of 2023 dated 29.06.2023 under Section 22(c) of the NDPS Act, 1985.

And

In the matter of : **Divya Chettri @ Bhutia**

- Petitioner.

Mr. Sourav Ganguly,
Ms. Rishita Chakraborty,
Mr. Gopal Roy

....For the Petitioner.

Mr. Abhijit Sarkar
Mr. Tapan Bhattacharjee
...For the State.

1. In course of hearing, learned Counsel for the petitioner at the very outset draws our attention to the written complaint as lodged by the concerned Police Officer of the Police Station. It is submitted that the present accused petitioner has been falsely implicated and she has been detained in JC with a baby on her lap. It is further submitted that the present accused petitioner being an innocent lady has got no criminal antecedent.
2. Learned Counsel for the petitioner while placing reliance upon an order dated 01.03.2023 in **Special Leave to Appeal (Criminal) No.12168/2022 (Sahimina Biswas Vs. The State of West Bengal)** as passed by the Hon'ble

Apex Court argued that in a similar circumstance, a female accused was enlarged on bail by the Apex Court. It is, thus, submitted that a favourable discretion may be exercised in favour of the present petitioner.

3. While opposing the prayer for bail, learned Counsel for the State draws our attention to the written complaint as well he further draws our attention to the seizure list as prepared in course of investigation. It is further submitted that in course of investigation, commercial quantity of contraband article was seized from the joint possession of the present accused petitioner. It is further submitted that since the trial has already been started, the instant application for bail may be rejected as otherwise that would hamper the progress of the trial.
4. We have meticulously gone through the materials available on record and we have also considered the rival submissions. We also perused the unreported decision of **Sahimina Biswas** (supra) as passed by the Hon'ble Apex Court. It appears to us that the ground of bail as has been canvassed before us squarely matches with the facts and circumstances in **Sahimina Biswas** (supra).
5. In view of such, we are also inclined to exercise our discretion under Section 439 Cr.P.C. in favour of the present accused petitioner considering the present accused petitioner is not only a lady but she has a baby on her lap.

6. In view of such, prayer for bail is allowed.
7. The petitioner, **Divya Chettri @ Bhutia**, shall accordingly be released on bail upon furnishing 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 (NDPS) at Kalimpong with a condition that the present accused petitioner shall appear before the learned Trial Court on each and every date of substantive hearing subject to the provision of Section 317 of the Cr.P.C.
1. It is further ordered that in the event the present accused petitioner fails to attend the learned Trial Court without any justification even if on a single day, learned Trial Court is at liberty to issue warrant of arrest against her.
2. It is further ordered that the present accused petitioner shall not leave the territorial jurisdiction of the District Kalimpong till conclusion of the trial unless permitted by the Trial Court.
3. It is further ordered that the present accused petitioner shall furnish her full postal address where she would reside during bail.
4. Accordingly, the application for bail is disposed of.
5. 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.)