

03.05.2024
SL No.13
Court No.1
(gc)
(Allowed)

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

CRM (NDPS) 207 of 2024

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Siliguri Police Station Case No.145/2022 dated 24.01.2022 under Section 21(c) of the NDPS Act, 1985.

And

In the matter of : **Ashok Kumar Gond**

- Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shubham Kumar,
Ms. Rikta Sarkar,
Ms. Sayantani Das

....For the Petitioner.

Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee

...For the State.

1. Heard learned Counsel for the parties.
2. On perusal of Column 10 of the Arrest Memo, we find no signature either of any member of the family of the accused person or respectable person of the locality which according to us is a strict violation of 41B of the Cr.P.C. Apart from the said fact, we also notice that the charge-sheet has already been filed on 30th June, 2022 while the present accused petitioner is in incarceration since 24th January, 2022. It is also submitted at the bar that not a single witness has been examined till date.

3. Considering serious infraction of the rule as mentioned (supra) and also considering the long incarceration of the present accused petitioner, we are convinced that the present accused petitioner is able to rebut statutory restriction under Section 37 of the NDPS Act.
4. In the facts and circumstances of the present case, the present accused petitioner, **Ashok Kumar Gond**, shall 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)/ learned Additional Session Judge, 2nd Court, Siliguri 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. and the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever. In the event of non-compliance of any of the conditions, the bail shall stand automatically cancelled without any further reference to this Court.
5. We make it clear that the Investigating Officer shall ensure appearance of all the witnesses and production of the alams on each date of substantive hearing, failing which, the learned Trial Court will be at liberty to take appropriate coercive action against the prosecution witnesses as well as the police personnel.
6. Accordingly, the application for bail is disposed of.

7. 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.)