

JPD-2
Ct No.01
24.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 265 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Malbazar Police Station Case No. 170 of 2024 dated 26.03.2024 under Section 21(c) of the NDPS Act.

And

In the matter of: **Ranjit Tamang and another**

.... petitioners

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

... for the petitioners

Mr. Aditi Shankar Chakraborty
Mr. Subhasish Misra

... for the State

1. Learned counsel for the petitioners contends that the petitioners were apprehended at Elenbari check post at about 2.15 pm.
2. It is submitted that the said location is a crowded area but even then a member of the raiding party signed as an independent witness in the Memo of Arrest.
3. It is submitted that the same vitiates the process of arrest.
4. Learned counsel for the State cites *Baldev Singh vs. State of Haryana* reported at 2015 (17) SCC 554 where it was held by the Hon'ble Supreme Court that there is no legal proposition that evidence of police officials unless supported by independent evidence is unworthy of acceptance. The Supreme Court further observed that evidence of police witnesses cannot be discarded

merely on the ground that they belong to police force and interested in the investigation and their desire to see the success of the case.

5. Prudence, however, requires (the Supreme Court further observed) that the evidence of police officials who are interested in the outcome of the result of the case needs to be carefully scrutinized and independently appreciated. Mere fact that they are police officials does not by itself give rise to any doubt about their creditworthiness.
6. With full agreement with the above view, although police officials, merely by virtue of their office, cannot be doubted on their creditworthiness, even then, we are of the opinion that the cardinal principle of justice is that one cannot be the judge of one's own cause.
7. In the present case, the police official did not sign as a police official independently but as a part of the raiding party and as such, there was direct clash of interest as an independent witness.
8. In such view of the matter, we are unable to accept the proposition advanced by the respondents.
9. Since the process of arrest was vitiated and the rigours of Section 37 of the NDPS Act are thus alleviated, we are inclined to grant bail to the petitioners.
10. Accordingly, CRM (NDPS) 265 of 2024 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall

furnish 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), First Court, Jalpaiguri. The sureties may be common in respect of all the petitioners.

- 11.** The petitioners shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
- 12.** Further, the petitioners shall not, directly or indirectly, 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.)

(Prasenjit Biswas, J.)