

JPD-06
Ct No.01
25.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 280 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Bhaktinagar** Police Station Case No. **1080** of **2023** dated **08.12.2023** under Sections **21(c)/22(c)/29** of the **NDPS Act, 1985**.

And

In the matter of: **Md. Jahangir**

.... petitioner

Mr. Hillol Saha Podder

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Kallol Nag

... for the State

1. Learned counsel for the petitioner contends that the petitioner's arrest and seizure was vitiated due to gross violation of Section 41B of the Code of Criminal Procedure, 1973. Learned counsel submits that as per sub-clause (b) (i) of Section 41B, the memorandum of arrest shall be attested by at least one witness who is required to be either a member of the family of the arrested person or a respectable member of the locality where the arrest is made. Even as per the seizure list, it is submitted, the name of the witness who signed the memo of arrest, namely one Ujjal Ghosh, appears to be from Murshidabad, which is far off from the area where the arrest was made, that is, within the police station of Bhaktinagar.

2. Learned counsel for the State opposes the prayer for bail and points out that as mentioned in the seizure list, the said witness is at present a resident of the locality where the arrest was made.
3. We find from the description of the said witness in the seizure list that his address has been given to be C/o one Dipesh Kar of 4/45 Baghajatin Colony, PS-Pradhan Nagar as well as he has been described as a staff of Bijay F.L. shop, both of which are within the locality where the arrest was made. As such, although the petitioner might have an objection on such count at the trial, at this juncture, on the *ex facie* material available, we are of the opinion that there was no apparent violation of Section 41B of the Code of Criminal Procedure.
4. Accordingly, CRM (NDPS) 280 of 2024 is dismissed.
5. It is made clear, however, that all the above findings are tentative and it will be open to the parties to argue all their points at the trial independently of such findings.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)