

AD-12
Ct No.01
Jalpaiguri
25.07.2024
SP

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 299 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Naxalbari Police Station Case No. 216 of 2023 dated 02.10.2023 under Section 21(c)/22(c) of the NDPS Act, 1985.

And

In the matter of: MD.HASANUL

. . . .for the petitioner

Mr. Hillol Saha Podder, Adv.
Ms. Mousumi Das, Adv.

... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Biswarup Roy, Adv.

... for the State

1. Learned counsel for the petitioner contends that the recovery was made from a scooty, which is a private vehicle and does not come within the purview of “public place” within the contemplation of Section 43 of the NDPS Act.
2. As such, the provisions of Sections 42(1), second proviso, read with Section 42(2) of the said Act were to be complied with. However, there is no indication in the written complaint or the FIR that any written intimation of the grounds of apprehension of the Arresting Officer regarding why prior

warrant could not be obtained was sent. Thus, the entire process of arrest is vitiated.

3. Learned counsel for the State opposes the prayer for bail and submits that there was due compliance of Section 42 of the NDPS Act. In such context, learned counsel places before the Court the relevant portion of the case diary which shows that intimation was actually given under sub-Section (2) of Section 42 of the NDPS Act on October 1, 2023 itself, when the petitioner was apprehended.
4. Thus, we do not find any merit in the submissions of the petitioner.
5. Moreover, since two coordinate Benches had previously rejected the prayer for bail, we are not inclined to reopen the issues, which have been held by the Coordinate Benches to be fit to go to trial.
6. Accordingly, CRM 299 of 2024 is dismissed. However, it is expected that the Trial will be expedited.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)