

JPD-28
Ct No.01
25.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 325 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagdogra Police Station Case No. 189 of 2023 dated 04.05.2023 under Section 21(c) of the NDPS Act.

And

In the matter of: **Uttara Biswas and another**

.... petitioners

Mr. Aniruddha Biswas
Ms. Rima Sarkar
Ms. Sidhi Sethia
Mr. Kanak Mishra

... for the petitioners

Mr. Ujjwal Luksom
Mr. Sagnik Sankar Sikdar

... for the State

1. The petitioners allege infringement of Section 52A of the NDPS Act.
2. The seizure of the contraband articles was made on May 4, 2023 and the sample was received by the chemical laboratory on May 15, 2023.
3. However, even after such receipt, only on May 31, 2023, the certification of the inventory was done. It is argued that as such, when the sample was received by the laboratory, it had been sent without such certification.
4. That apart, it is argued that spot samples were collected and sent for FSL report, which is also not permissible in law.

5. Learned counsel for the State opposes the prayer for bail and points out that inventory was done on May 5, 2023, that is, before the sample was sent to the laboratory.
6. However, we are of the considered opinion that merely an inventory being done, without certification, has no value whatsoever.
7. As such, as and when the samples were sent for the purpose of chemical examination on May 15, 2023, despite inventory having been taken, there was no certification of such inventory and as such the entire process of sending the sample was vitiated.
8. Since the certification and chemical examination report is the crux of an NDPS matter, we are inclined to grant bail to the petitioners.
9. Accordingly, CRM (NDPS) 325 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 Additional District and Session Judge, Second Court (Special Court under NDPS Act) at Siliguri. The sureties may be common in respect of all the petitioners.
10. 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.
11. 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.)