

JPD-59
Ct No.01
24.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 335 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. **366** of **2023** dated **01.08.2023** under Sections **21(c)** of the **NDPS Act, 1985**.

And

In the matter of: **Goutam Mandal @ Gautam Mandal**

.... petitioner

Mr. Kumar Shantanu

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Kallol Nag,
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioner contends that the petitioner was the driver of the offending vehicle whereas one of the two other co-accused persons, who were passengers sitting on the rear seat of the vehicle and from whom the recovery was made, has been enlarged on bail today.
2. The petitioner submits that the petitioner is on a better footing than the said co-accused inasmuch as the recovery made from the petitioner as per column 5 of the seizure list as well as the FIR was merely the petitioner's own mobile phone. Neither any cash nor any contraband article was recovered from the person of the

petitioner. Hence, direct involvement of the petitioner in the alleged offence is itself shrouded in doubt.

- 3.** Learned counsel for the State submits that insofar as the bail granted to the co-accused person today is concerned, learned counsel has not yet got a copy of the said order and, as such, cannot apprise the court on the same. However, the prayer for bail is opposed on the other grounds since there was seizure of contraband articles from the accused persons.
- 4.** We find from the records that there is substance in the contention of the petitioner inasmuch as the petitioner stands on a lesser footing than the accused person vis-à-vis the alleged offence and that no recovery of any contraband article and/or cash was made from the petitioner himself. Thus, there being some doubt as to the direct involvement of the petitioner in the alleged crime, the rigours of Section 37 of the NDPS Act cannot be attached to the petitioner.
- 5.** Accordingly, CRM (NDPS) 335 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court (NDPS), Second Court, Siliguri.
- 6.** The petitioner 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.

7. Further, the petitioner 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.)