

AD-67
Ct No.01
Jalpaiguri
24.07.2024
B.Pal

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

CRM (NDPS) 343 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Falakata Police Station Case No. 492 of 2023 dated 04.10.2023 under Sections 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of: MIMO DAS

...Petitioner

Mr. Supritam Nag,
Ms. Trishna Roy

... for the petitioner

Mr. Nilay Chakraborty,
Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel contends that the petitioner was apprehended on the allegation and statement of a co-accused person. Such co-accused person was a driver of the offending vehicle who was arrested and gave out that one of the two persons who fled from the vehicle at the time of apprehension was the present petitioner and that the present petitioner was the helper of the said driver. Being entirely based on the statement of a co-accused person and as no recovery was made from the petitioner, it is submitted that the petitioner's arrest is vitiated under the provisions of the NDPS Act.

2. Learned counsel for the State objects to the prayer for bail.
3. We find from the circumstances that the rigours of Section 37 of the NDPS Act cannot be applicable in view of the fact that nothing was recovered from the person of the petitioner and that the petitioner was arrested only on the premise of the statement of a co-accused person, which casts doubt on the role of the petitioner in the alleged offence.
4. Accordingly, CRM (NDPS) 343 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.5,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Court of Additional Session Judge (Special Court, NDPS) 1st Court at Jalpaiguri.
5. The petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial and shall attend each and every date of trial.
6. 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.)