

JPD-67
Ct No.01
01.08.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 379 of 2024

In Re: - An application for bail under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Madarihat** Police Station Case No. **76** of **2024** dated **29.05.2024** under Sections **21(c)/25** of the **NDPS Act, 1985**.

And

In the matter of: **Jahangir Hossain and another**

.... petitioners

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioners

Mr. Nilay Chakraborty, Ld. APP,
Mr. Arjun Chowdhury

... for the State

1. Learned counsel for the petitioners contends that the provisions of law regarding search and seizure have not been complied with in case of the petitioners. Insofar as the petitioner no.2 is concerned, he was arrested on the basis of the statement of the petitioner no.1-co-accused although no recovery was made from the petitioner no.2.
2. Learned counsel for the State opposes the prayer for bail and places reliance on the call records between the petitioners, which indicates that the petitioners were constantly in touch with each other over the phone during the relevant point of time. As such, it is argued that since the present stage is an inchoate stage of

investigation, bail ought not to be granted to either of the petitioners.

3. Insofar as petitioner no.1 is concerned, we agree with the State insofar as it would be premature to grant bail to the said petitioner by overriding the rigours of Section 37 of the NDPS Act.
4. However, with regard to petitioner no.2, the call records produced by the State indicate that the petitioners were in touch among themselves over the phone from May 01 to May 22, 2024 whereas the alleged date of offence is May 29, 2024. Merely because an accused person from whom contraband is seized was in touch over the phone with some other person, lastly, seven days prior to the date of offence; more so, since there was continuous communication between the two between May 01 and May 22, 2024 during a period unrelated with the offence, it cannot be said that there was direct or indirect nexus of the person who was called by the accused from whom recovery was made insofar as the offence is concerned.
5. Hence, we are inclined to grant bail to the petitioner no.2, although such relief ought not to be granted at this stage to the petitioner no.1.
6. Hence, CRM (NDPS) 379 of 2024 is allowed only insofar as the petitioner no.2 is concerned, thereby granting bail to the petitioner no.2, namely, Rohit Minj, on condition that the petitioner no.2 shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the

satisfaction of the learned Special Court (NDPS Act) cum Session Judge, Alipurduar.

- 7.** The petitioner no.2 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.
- 8.** Further, the petitioner no.2 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.)