

JPD-54
Ct No.01
02.08.2024
S.Pal

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

CRM (NDPS) 380 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Alipurduar Police Station Case No.107 of 2018 dated 12.03.2018 under Section 18(b) of the NDPS Act, 1985.

And

In the matter of: Sri Bijala Munda and Another

...Petitioners

Mr. Kalipada Das

... for the petitioners

Mr. Aditi Shankar Chakraborty
Mr. Biswarup Roy

... for the State

1. Learned counsel for the petitioners points out that the petitioners were named as the owners of the lands where poppy plants were bring grown, which is the sole involvement of the petitioners as per the FIR. However, there is nothing on record to show that the petitioners are owners of such property at all. In fact, the petitioners disown the said lands.

2. It is further submitted that the investigation did not make any endeavour to ascertain the ownership of the lands at all.
3. Learned counsel for the State opposes the prayer for bail and submits that the petitioners were also cultivating on the lands in question, which has been elicited from the statement of a neighbour.
4. Learned counsel for the State opposes the prayer for bail on such ground.
5. We find from the submissions of the parties and the materials on record that the case now sought to be made out against the petitioners by the State is diametrically opposite to that which finds place in the FIR. Whereas the petitioners were never found to cultivate poppy on the lands in question, and were merely named as owners of the property in the complaint which gave rise to the FIR, now, merely on the basis of a flimsy piece of evidence, that is, the statement of a neighbour, the State seeks to make out a case that the petitioners are also engaged in cultivation, which was never its case at any point of time. In fact, the investigation did not reveal any document to show that the petitioners were owners of the property, which was the sole ground of naming the petitioners in the FIR.
6. Hence, the petitioners have made out a strong case for grant of bail.

7. Accordingly, CRM (NDPS) 380 of 2024 is allowed, thereby granting bail to the petitioners on condition that the petitioners shall furnish bond of Rs.1,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Sessions Judge, designated as learned Special Court (NDPS Act), Alipurduar. The sureties may be common for both the petitioners.
8. 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.
9. 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.)