

11.11.2024
Item no. 12.
Court No.1.
AB
(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (NDPS) 479 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Jalpaiguri Kotwali Police Station Case No.645 of 2024 Dated 25.9.2024 under Sections 20(b)(1)(c)/25 of the NDPS Act, 1985

And

In the matter of : Mulayam Ray & Anr.

.....Petitioners.

Mr. Sourav Ganguly,
Mr. Gopal Roy
Ms. Rishita Chakraborty.....for the Petitioners.

Mr. Ujjwal Luksom,
Ms. Sukanya Adhikarifor the State.

Dictated by Arijit Banerjee, J.

1. The petitioners say that they are in custody since September 24, 2024. They say that their arrest is wholly irregular. The arrest memo does not contain the signature of an independent witness. Against Column 10 (signature of witness), it is merely stated "intimated to the local ps through mail to the family members". This does not satisfy the requirement of law. Hence, the petitioners should be enlarged on bail.
2. We have heard learned State Advocate. We have seen the material in the case diary including the arrest

memo. Indeed, there is no signature of an independent witness as is required against Column 10 of the arrest memo.

3. Accordingly, we are constrained to hold that the petitioners have been able to overcome the restrictions under Section 37 of the NDPS Act. We, therefore, allow the petitioners' prayer for bail. The petitioners shall fully cooperate with the Investigating Officer.
4. Accordingly, we direct that the petitioners, namely **Mulayam Ray & Shivangi Singh** shall be released on bail upon furnishing a bond of Rs.25,000/-each, with two sureties of Rs.12,500/-each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at 1st Court, Jalpaiguri, and on further condition that the petitioners shall remain within the jurisdiction of local police station and the petitioner no.1 shall report to the Investigating Officer of the case once in a fortnight until further orders and the petitioner no.2 shall cooperate with the investigation.
5. The petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
6. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause,

the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this Court.

7. The application for bail is, accordingly, allowed.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)