

14.11.2024
Item no. 32.
Court No.1.
AB
(Allowed)

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

CRM (NDPS) 491 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 Pradhannagar P. S. Case No.551 of 2022 Dated 20.07.2022 under Sections 21(c)/22(c) of the NDPS Act

And

In the matter of : Shiv Kumar & Anr.Petitioners.

Mr. Arunava Paulfor the Petitioners.

Mr. Kallol Acharjee
Mr. Sourav Gangulyfor the State.

Dictated by Arijit Banerjee, J.

1. The petitioners say that there has been gross infraction of the provisions of Section 52A of the NDPS Act, 1985. Sample was sent to FSL prior to certification by the concerned Magistrate. This would dilute the provisions of Section 37 of the NDPS Act. They pray for bail.
2. Learned State Counsel produces the case diary. We find that the sample was sent to FSL on July 27, 2022. However, certification was done by the concerned Magistrate on July 30, 2024. Therefore, the petitioners are justifiably aggrieved.
3. In view of the aforesaid, we are constrained to allow the petitioners' prayer for bail.

4. Accordingly, we direct that the petitioners, namely **Shiv Kumar and Dharmendar 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 Siliguri, and on further conditions that they shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
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 petitioner's 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.)

