

02.12.2024
SL No.35
s.biswas
(Allowed)

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

C.R.M. (NDPS) 544 of 2024

In Re: - An application for bail under Section 483 of the BNSS in connection with **Falakata** P.S. Case No. **82/2024** dated **01.03.2024** under Sections **21(c)/22(c)/27(a)** of the NDPS Act.

And

In the matter of: **Maidul @ Moydul Ialam and others**

....Petitioner

Mr. Sabyasachi Chatterjee

Mr. Sourav Ganguly

Mr. Abdul Alim

Ms. Rishita Chakraborty

Mr. Anarul Hoque

...for the Petitioner

Mr. Nilay Chakraborty

Ms. Sukanya Adhikary

...for the State

1. The petitioners pray for bail on the ground of parity as also on the ground of non-compliance of Section 42(2) of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'NDPS Act'). The petitioners submit that the Hon'ble Apex Court had time and again reiterated the proposition of law that compliance of Section 42(2) of said act is mandatory and non-compliance thereof would vitiate trial. The petitioners also rely on the decision of the Hon'ble Apex Court wherein the court was of the view that even while considering the application for bail, the court shall be required to ascertain whether the mandatory provisions of law had been complied with or not. According to the

petitioners, the co-accused persons namely Saddam Hussain and Hafijul were released on bail by a Co-ordinate Bench, upon noting non-compliance of law.

2. Learned counsel appearing for the State produces the case diary and submits that petitioners are at liberty to raise such point at the time of trial. He submits that huge quantity of heroin was seized from the joint possession of the petitioners and the other co-accused persons. .
3. We have considered the judgment of the Hon'ble Apex Court with regard to compliance of Section 42(2) of the NDPS Act and the material on record. Two of the co-accused persons are on bail. The period of detention is of nine months. Seventeen witnesses have been cited. There is no chance of early conclusion of trial, we are inclined to grant bail to the petitioners.
4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.25,000/- each, with two sureties of equal amount each, one of whom must be local, to the satisfaction of the Learned Special Court under NDPS Act, Alipurduar, subject to the condition that the petitioners shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future. The petitioners shall not leave the jurisdiction of the trial court until further orders.

5. In the event the petitioners fail to comply with the conditions as stated hereinbefore, it is open to the trial court to cancel the bail of the petitioners without any further reference to this Court.
6. The application for bail is, thus, allowed.
7. All parties shall act on the basis of the server copy of the order.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)