

CIS No. NDPS 18/2022

In the Court of the Judge (Special Court) under NDPS Act, Siliguri

CR (NDPS) Case No. 18 of 2022

Order no. 10, Dated 31/05/2022

Both the accused persons namely Mari Soren @ Marina and Sati Soren are produced from the J.C.

A bail petition is filed and moved on behalf of the accused Mari Soren @ Marina. Copy served.

The Ld. Advocate for accused Mari Soren @ Marina submits that the accused person has been falsely implicated in this case. He further submits that the memo of arrest is defective. He further submits that the memo of arrest has not been duly filled up and he refers a decision reported in 2018 Cri.L.J. 4098 of the Hon'ble Calcutta High Court. He prays for bail.

Ld. Special PP-in-charge raises objection.

Heard both sides.

Perused the bail petition and the case record.

Though there is no signature of witness on memo of arrest, but can this be sufficient ground for granting bail. In view of the decision, in reference to 2018 Cri.L.J. 4098, of the Hon'ble High Court, Calcutta, the Hon'ble Court was pleased to observe more than one lacuna in the prosecution case and it was recorded, "one turned up" at the space meant for signature of relation of respectable person member of the locality in the memo of arrest, but in the instant case the said columns have been left blank, from which it can be inferred that the same has been left blank due to inadvertence or it can be termed as irregularity or unintentional. Mere an irregularity in a case cannot be strong ground to release the accused person on bail where there are sufficient material against the accused person to prima facie hold that she was possessing commercial quantity of contraband. Moreover, this point has been agitated by the Ld. Lawyer for the accused person on number of times in the past. In fact Ld. Lawyer for the accused person has been taking one or the other grounds to get bail any how.

It appears that prima facie commercial quantity of contraband, prohibited under NDPS Act, or in contravention of NDPS Act, has been seized from the accused person. Granting of bail with regard to commercial quantity is barred under section 37 of the NDPS Act. Considering this, gravity of the offence alleged, entire facts and circumstances of this case and nature and quantity of contraband seized, the bail petition stands rejected.

The case is adjourned.

To 14.06.2022 for production & I.O.'s report.

D/c by me

Sd/-

Judge, Special Court
NDPS Act, Siliguri

Sd/-

Judge, Special Court
NDPS Act, Siliguri
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