

News

Trial judges are disciplined by the Calcutta High Court for neglecting to provide accused parties with legal counsel.



While granted bail to an accused person in a narcotics case, the court issued the directive.

Two judges were disciplined by the Calcutta High Court on Wednesday for failing to provide legal representation to an unrepresented defendant in a case under the Narcotic Drugs and Psychotropic Substances (NDPS) Act [**Sudhar Mangar v. The State of West Bengal**].

While granting accused Sudhar Mangar bail, Justice **Krishna Rao** discovered that he was not given legal assistance by the District & Sessions Judge (NDPS) court, where he was produced following the conclusion of police remand, or the Chief Judicial Magistrate, before whom he was produced following the arrest.

"This order be forwarded to the Registrar General of the High Court for information of the Hon'ble the Chief Justice and necessary action against the Chief Judicial Magistrate and District and Sessions Judge (NDPS), Alipurduar for not offering Advocate from Legal Aid to the petitioner as at the time of production, the petitioner was undefended," the court directed.

On March 28, 2024, Mangar was taken into custody after 40 bottles of Rc-Kuff cough syrup were purportedly taken from his home. He had requested bail from the High Court, claiming that he had not been told why he had been arrested. It was claimed that the arresting officer had infringed upon his rights under Section 52(1) of the NDPS Act and Article 22(1) of the Indian Constitution.

The prosecution retorted that the grounds did not have to be presented in writing. Additionally, it was stated that in situations involving commercial amounts of narcotic drugs or psychotropic substances, there are strict requirements for granting bail.

The Court discovered, however, that the arrest note had no reference to the grounds for arrest.

The petitioner will appear before the Learned District and Sessions Judge (Special Court), Alipurduar on March 29, 2024, according to the arrest record. Additionally, it seems that his relative's signature was included in the arrest memo along with the petitioner's. It acknowledged that the petitioner's reason for arrest is not included in the arrest document and that there is no column containing information on the reason for arrest," the report noted.

The Court noticed that the State had not provided any documentation or proof that the accused was truly apprised of the grounds for arrest, despite the written complaint, case diary, and forwarding report stating that the accused was informed of these causes.

Thus, it came to the conclusion that the accused's rights had been violated.

"Considering the above, this Court finds that while arresting the petitioner, the Arresting Officer has violated the provisions of Article 22(1) of the Constitution of India and Section 52(1) of the NDPS Act, 1985 by not informing the ground of arrest to the petitioner at the time of arrest of the petitioner," it stated.

The Court emphasized that no one who is arrested may be held in custody without being promptly informed of the reason for their detention, as stipulated in Article 22(1) of the Indian

Constitution.

Since the arrested person is entitled to this fundamental right, the method used to tell them of the reasons for their detention must be relevant in order to benefit the intended recipient. The same is absent in this instance," it stated.

In light of this, the accused was granted bail by the court.

The petitioner was represented by advocates Sunayana Parveen, Riya Agarwal, Mantu Mandal, Bappaditya Roy, Soumyadeep Paul, Arjun Chowdhury, P Dutta Chowdhury, Sunayana Dutta, and Swagata Mitra.

The State was represented by advocates Aditi Shankar Chakraborty, Nilay Chakraborty, and Biswarup Roy.