

26.08.19

Sl. No.7

akd

Ct. No.1

[Rejected]

CALCUTTA HIGH COURT

In the Circuit Bench at Jalpaiguri

C. R. M. 663 of 2019

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.08.2019 in connection with Mathabhanga Police Station Case No.83 of 2018 dated 23.03.2018 under Section 20(b)(ii)(c) of the NDPS Act.

And

In Re: ***Saidur Rahaman & Anr.***

... .. Petitioners

Mr. Kalipada Das .. Advocate

... .. for the petitioners

Mr. Arun Kumar Sarkar .. Advocate

Mr. Abhijit Sarkar .. Advocate

... .. for the State

The petitioners are seeking bail in connection with a case relating to offences punishable under Section 20(b)(ii)(c) of the NDPS Act.

It is submitted on behalf of the petitioners that there is overwriting in the seizure list and the seizing officer is also the Investigating Officer of the case.

Learned advocate for the State opposes the prayer for bail and submits that 57.6 kgs. of *Ganja*, which is above commercial quantity, was recovered from the possession of the petitioners in presence of independent witnesses.

We have considered the materials on record. Submissions with regard to irregularities in the seizure and/or prejudice, if any, caused to the petitioners as contended on his behalf are mixed

questions of facts and law which may be thrashed out at the appropriate stage of the proceeding in accordance with law. However, in view of the prima facie involvement of the petitioners in the alleged possession of narcotic substance i.e. 57.6 kgs. of *Ganja*, which is above commercial quantity and in view of the fact that the alleged seizure was witnessed by independent witnesses and in the light of the statutory restrictions under Section 37 of the NDPS Act, we are not inclined in granting bail to the petitioners.

The application for bail is thus **rejected**.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)