

21.04.2021
RP/ct 1
sl no. 08

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

C.R.M. 389 of 2021

In Re : An application for bail under section 439 of the Code of Criminal Procedure, 1973 filed on 18.03.2021 in connection with Kumargram PS Case No.344 of 2016 dated 01.11.2016 under sections 20(b)(ii)(c) of NDPS Act, 1985.

And

In Re : Lucas Basumatary @ Honga @ Lukas Basumatari
..... petitioner

Mr. Joydeep Kanta Bhowmick
Ms. Ankita Patodia

..... for petitioner

Mr. Abhijit Sarkar
Mr. Aniruddha Biswas

.....for State

The petitioner is in custody for 4½ years and prays for bail. Learned counsel for the petitioner refers to a judgment of the Hon'ble Supreme Court in **Supreme Court Legal Aid Committee vs. Union of India** reported in **(1994) 6 SCC 731** and submits that though the petitioner is in custody for a considerable period of time, trial has not commenced as yet due to no fault on the part of the petitioner. Learned counsel also refers to a judgment of coordinate bench passed in CRM 9314 of 2020, to which one of us was a party (Suvra Ghosh J).

The learned advocate for the State vehemently opposes the prayer for bail in producing the case diary.

In **Supreme Court Legal Aid Committee** (supra), liberty of bail was extended to an under trial suffering prolonged detention for more than five years in connection with offence under the NDPS Act due to inordinate delay in trial. The petitioner is in custody for

4½ years. The judgment of the Supreme Court is therefore not applicable in overriding the bar under Section 37 of NDPS Act. Narcotic substance above commercial quantity was recovered from the possession of the petitioner. In view of the statutory restriction under Section 37 of NDPS Act the prayer for bail is rejected.

Considering the period of detention of the petitioner, the trial Court is requested to dispose of the matter as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

CRM 389 of 2021 is disposed of.

(Arindam Sinha, J.)

(Suvra Ghosh, J)