

20.04.2021
RP/ct 1
sl no. 16
Dismissed

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

C.R.M. 393 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 Tufanganj PS Case No.437 of 2020 dated 11.10.2020 under sections 21(C)/29 of NDPS Act, 1985.

And

In Re : Samsher Ali petitioner

Ms. Arpita Saha

..... for petitioner

Mr. Nilay Chakraborty

Ms. Namrata Das

.....for State

Ms. Saha, learned advocate appears on behalf of petitioner submits that the petitioner is in custody for about 192 days and there was no independent witness to the seizure of narcotic drugs. Investigation is still going on though statutory period for submission of charge-sheet has expired.

The learned advocate for the State refers to the case diary and submits that extension of time for investigation has been granted by the learned trial Court. Narcotic drug above commercial quantity has been recovered from the possession of the petitioner and no independent witness was available during seizure.

It appears that 1200 YAVA tablets were recovered from the possession of the petitioner. We notice that no independent witness took part in seizure of the said drug. Such lapse, if any, on the part of the prosecution shall enure to the benefit of the petitioner at the time of trial. It is submitted by the State that the period of investigation has been extended by the learned trial Court.

In view of statutory restriction under Section 37 of NDPS Act,
we are not inclined to grant bail to the petitioner.

CRM 393 of 2021 is dismissed.

(Arindam Sinha, J.)

(Suvra Ghosh, J)