

22.07.2022
cm/ct 28
sl no. 10

C.R.M. (NDPS) No. 814 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Ultadanga Excise Case No. S.I's S.L. No. 1/A/21-22** dated **01.09.2021** under Sections **20 (b)(ii)(c)/29** of the Narcotic Drugs and Psychotropic Substances Act.

And

Rejected

In Re : Avijit Bhattacharya

..... petitioner

Mr. Satadru Lahiri

Mr. Safdar Azam

..... for the petitioner

Mr. Sanjoy Bardhan, Ld. A.P.P.

Ms. Mousumi Sarkar

..... for the State

Petitioner is in custody for 11 months. It is submitted narcotic substance seized from his possession is below commercial quantity. Seizure was not witnessed by independent persons.

Learned lawyer for the State opposes the prayer for bail. He submits petitioner and co-accused enter into conspiracy to traffic narcotic substance. Total recovery from all the accused persons is to the tune of 24.3 kgs. of ganja which is above commercial quantity.

We have considered the materials on record. Statements of witnesses and other contemporaneous documents show recoveries were made from petitioner and co-accuseds on various dates. Total recovery of narcotic from all the accuseds including petitioner is above commercial quantity i.e. 24.3 kgs. of ganja. Petitioner and co-accuseds have been charged with conspiracy and, therefore, the accusation cannot be scaled down with reference to recovery from

each accused. Statements of police officers corroborate each other with regard to recovery of narcotic substance from petitioner and co-accuseds. Reasons for not joining independent witness may be thrashed out in the course of trial.

However, in the light of the aforesaid incriminating materials and in the light of the statutory restrictions under Section 37 of the N.D.P.S. Act, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)