

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Appellate Jurisdiction**

06.06.2022
Serial no.58
[Dd/AD]
(Rejected)

CRM (NDPS) 171 of 2022

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with NDPS Case No. **13 of 2018** arising out of **Alipurduar** Police Station Case No. **144 of 2018** dated **13.04.2018** under Section **20(b)(ii)(c)** of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : Rajesh Kundu @ Kauwa

... ..Petitioner

Mr. Sabir Ali, Advocate

... .. For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP

Mr. Biswarup Roy, Advocates

... ...For the State

Petitioner renews the prayer for bail.

This is the third application for bail.

The petitioner submits that the petitioner was tortured in custody. He points out that the seizure witnesses were shown to be present at the time of seizure as well as at the time when the narcotics were weighed. The distance between the two places is 17 and 1/2 kilometer away.

We are of the view that the petitioner is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985 for the reasons stated hereafter. Firstly, the issues sought to be raised are issues to be taken at the time of trial and secondly, commercial quantity of narcotic was seized from the possession of the petitioner. Consequently, the petitioner is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985. Moreover, there is hardly

any material change in circumstances subsequent to the earlier two orders of rejection.

Therefore, we are not inclined to grant bail to the petitioner.

Prayer for bail of the petitioner is **rejected**.

CRM (NDPS) 171 of 2022 is **dismissed**.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)