

IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION  
[CIRCUIT BENCH AT JALPAIGURI]

**Present: Hon'ble Justice Arijit Banerjee  
And  
Hon'ble Justice Aniruddha Roy**

**CRM No. 1297 of 2021**

**Dechay Tshering Bhutia  
vs.  
The State of West Bengal & Ors.**

**For the petitioners:** **Mr. Arjun Chowdhury, Adv.,  
Mr. Pratyusha Dutta, Adv.,  
Mr. Bikash Singha, Adv.**

**For the State:** **Mr. Niloy Chakraborty, Adv.,  
Mr. Sourav Ganguly, Adv.**

**Reserved on:** **January 14, 2022.**

**Judgment on:** **January 31, 2022.**

**Aniruddha Roy, J.:**

1. This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973 (for short, CrPC) by the petitioner.

**Facts:-**

2. The charge in connection with which the petitioner seeks bail is under 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, NDPS Act) in connection with NDPS Case No. 06 of 2021 arising out of Kalimpong Police Station Case No. 229 of 2021 (for short, the said case).
3. The petitioner is a resident of Siliguri, P.S. Pradhan Nagar.

4. The prosecution case is that on September 30, 2021 the Officer-in-charge, Melli, under Police Station Kalimpong lodged a written complaint to the effect that on the same day at about 15:15 hours Sri. Sanjay Ghosh, Inspector-in-charge, Kalimpong Police Station received secret information that a white and yellow Tata Sumo vehicle bearing registration no. SK-011-3522 (for short, the said vehicle) was coming from Siliguri towards Sikkim carrying contraband Drugs and Psychotropic substances. The Police Officer on the basis of the secret information seized the vehicle and conducted search after complying with the provisions of Section 42 of the NDPS Act. The moment the vehicle was seized one person jumped out there from and fled away. The driver and two other persons were found in the vehicle. The petitioner was the driver of the vehicle. During the search, 40 bottles of 'ONEREEX' Cough Syrup, each bottle containing 100 ml of syrup, were found in the car. The relevant First Information Report was registered as Kalimpong P.S. Case No. 229 of 2021 dated September 30, 2021. Necessary seizure list was also prepared in compliance of the statutory provisions. The petitioner was produced before the Learned Additional Sessions Judge 2<sup>nd</sup> Court (under NDPS Act) at Jalpaiguri on October 01, 2021. The petitioner was sent to judicial custody on October 05, 2021. His prayer for bail was rejected by the said Special Court on November 25, 2021.

**Arguments:-**

5. Mr. Arjun Chowdhury, learned advocate appearing for the petitioner at the threshold submits that, the petitioner was falsely implicated and had no

connection with the carriage of the contraband. He was merely the driver of the vehicle.

6. Mr. Chowdhury further drew the attention of this Court to the seizure list prepared on November 30, 2021 and submitted that, the items allegedly found in the said vehicle could not and cannot be treated as contraband substance as the content of Codeine mixture therein is within the permitted limit in each 100 ml bottle of syrup and the same is used as medically prescribed cough syrup and as such the invocation of the provisions under the said NDPS Act was illegal, wrongful and vitiated the entire complaint on the basis of which the petitioner was arrested and as such the petitioner is entitled to be enlarged on bail without any further delay as his every day's detention is illegal.
7. Learned Counsel for the petitioner then placed Government of India's Notification showing the exempted manufactured Narcotic Drugs. The said Notification is captioned "Manufactured Narcotic Drugs" (as contained in Govt. of India's Notification S.O.826(E) dated 14.11.1985 and S.O.40(E) dated 29.01.1993) (for short, the said Notification). He drew our attention to Entry No. 35 in the aforesaid notification, which is reproduced hereinbelow:

*"35: Methyl morphine (commonly known as '**Codeine**') and Ethyl morphine and their salts (including **Dionine**), all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100 milligrammes of the drug per dosage unit and with a concentration of not more than 2.5% in undivided preparations and which have been established in Therapeutic practice".*

8. Relying upon the aforesaid notification Mr. Chowdhury submitted that, from Entry No.35 thereof, it is clear that an exemption has been provided with

respect to Codeine preparations wherein the preparations are compounded with one or more other ingredients and which contains not more than 100 mg of the drug per dosage unit and where the concentration of Codeine is not more than 2.5% in undivided preparations and which have been established in therapeutic practice. If these conditions are satisfied then the said preparation containing Codeine up to that optimum level would not be a manufactured drug and not a narcotic drug.

9. The Learned Counsel for the petitioner then placed reliance on the definition of 'manufactured drug' as defined under Section 2(XI) of the NDPS Act and the proviso thereunder. He submitted that, the proviso to Section 2(XI) of the NDPS Act excludes any narcotic substance or preparation which the central government may by Notification in the official gazette declare not to be a manufactured drug. In the facts of this case, the Codeine content found in the said Onerex Cough Syrup (for short, the said Cough Syrup) strictly in terms of the said Notification and satisfies the conditions of exemptions and as such the seized articles could not and cannot be treated as manufactured drug and are not narcotic drug. In the instant case 40 bottles of the said cough syrup of 100 ml each was seized from the possession of the petitioner in which the Codeine content is 0.17% and comes within the scope and ambit of Entry No. 35 of the said Notification and are accordingly exempted from the category of manufactured drugs or narcotic drugs as defined under the NDPS Act.
10. In view of the said Notification he submitted that, each 100 ml. bottle of Onereex Cough Syrup seized by the Police Officer from the said vehicle

contained a concentration of not more than 2.5% Codeine, and the same has been established in therapeutic practice. As such the petitioner ought not to have been proceeded against under the NDPS Act and booked for custody and he at best could be proceeded against under the Drugs and Cosmetics Act, 1940. The custody of the petitioner is, therefore, illegal, wrongful, and mala fide and he is entitled to be enlarged on bail forthwith. In support of his contention, Learned Counsel for the petitioner relied upon the following judgments of the Hon'ble Supreme Court and High Courts:-

- (i.) *In the matter of: Iqbal Singh vs. State, delivered on July 31, 2020 by the Delhi High Court in Bail Application No. 645 of 2020;*
- (ii.) *In the matter of: Sandeep Kumar vs. State of Punjab, delivered on May 10, 2012 by the High Court of Punjab and Haryana at Chandigarh in CRM No. M2755 of 2012;*
- (iii.) *In the matter of: Hira Singh & Anr. vs. Union of India & Anr., delivered by the Hon'ble Supreme Court on April 22, 2020 in Criminal Appeal No. 722 of 2017;*
- (iv.) *In the matter of: Vibhor Rana vs. Union of India, delivered by Allahabad High Court in Criminal Miscellaneous Writ Petition No.-8403 of 2021 along with Bittu Kumar vs. Union of Indi in Criminal Miscellaneous Writ Petition No. 8370 of 2021 and;*
- (v.) *In the matter of: Mohd. Ahsan vs. Customs, delivered on June 25, 2021 by the Delhi High Court in Bail Application No. 1136 of 2021.*

11. Mr. Niloy Chakraborty, Learned Advocate appearing for the prosecution/State submitted that, the petitioner being the driver of the vehicle was found to have with him the subject contraband substance in the vehicle. During investigation not an iota of evidence was produced by or on behalf of the petitioner that the contraband substances were being carried for any therapeutic purpose or that the petitioner carries on or is connected with any medicine shop or clinic dealing with such drugs for therapeutic purpose. Since the subject contraband substance was much above commercial quantity which attracted the rigour of Section 37 of the NDPS Act, the prayer for bail made by the petitioner should be rejected. Learned Prosecution Counsel submitted that, charge sheet has not yet been submitted. One person fled away when the vehicle carrying contraband was seized. The investigation is in progress and custodial enquiry of the petitioner is very much necessary.
12. Referring to Entry 35 of the said Notification, Learned Counsel for the Prosecution submitted that, the said Entry No. 35 contains twin conditions, they are:-
  - (a) *The content of Codeine, inter alia, in all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100 mg of the drug per dosage unit and with a concentration of not more than 2.5% in undivided preparations; and*
  - (b) *Which have been established in therapeutic practice.*
13. Learned Counsel for the Prosecution further submitted that, these twin conditions must be satisfied together and not in a disjunctive manner. The twin

conditions cannot be taken into consideration in isolation from one another and must be read together while applying Entry 35 of the said Notification in the facts of a case. To avail of the exceptions carved out under the said Entry 35 of the said Notification the accused must prima facie satisfy both the said twin tests.

14. He further submitted that, the contraband substance recovered from the vehicle of which the petitioner was the driver, contained Codeine mixture as would be evident from the seizure list beyond the permissible statutory limit and attracted the rigour of Section 37 of the NDPS Act. Relying upon the restrictions imposed under Section 8 of the NDPS Act he submitted that, no person shall, inter alia, transship any narcotic drug or substance or psychotropic substance except for medical or scientific purposes and in the manner and to the extent provided under the provisions of the said Act or the rules or orders made thereunder and in a case where any such provision imposes any requirement by way of license, permit or authorization one must have such license, permit or authorization and the Central Government may by Notification impose/alter any such terms and conditions. He submitted that, if the transportation of codeine, in the facts of this case, was for therapeutic purpose then a person of common prudence should have produced the relevant permission, authorization or license in this regard. Hence, the prayer for bail of the petitioner in the facts of this case should be declined. In support of his contentions, Learned Prosecution Counsel relied upon the following judgments:-

- (i) *In the matter of: Rajkamal Namdev vs. The State of Madhya Pradesh, dated August 2, 2021 delivered by the Hon'ble Madhya Pradesh High Court in NCRC-25233 of 2021;*
- (ii) *In the matter of: Md Sahabuddin & Anr. vs. The State of Assam delivered by the Hon'ble Supreme Court on October 05, 2012 in Criminal Appeal No. 1602 of 2012 [SLP(CRL) NO. 5503 OF 2012] reported at (2012) 13 SCC 491 and;*
- (iii) *In the matter of: The State of Punjab vs. Rakesh Kumar delivered by the Hon'ble Supreme Court on December 03, 2018 in Criminal Appeal No. 1512 of 2018 (Arising out of SLP(CRL) NO. 4762 OF 2018).*

**Court's view:-**

15. We have considered the arguments made on behalf of the parties and the written notes submitted on their behalf. We have perused the case diary and the material on record placed before this court. The facts are not really disputed in this case for adjudication of a prima facie case as to whether or not the petitioner should be enlarged on bail. The most relevant fact is that the alleged contraband substances were found in the possession of the petitioner as he was driving the subject vehicle. It is also not disputed that, the petitioner has not produced an iota of evidence to show that he was carrying the Codeine mixture for any therapeutic purpose of wheresoever nature. He did not produce any document or record that the said Codeine was carried for any medical shop or for any medical purpose whatsoever. The facts of this case keeping in mind the object and reasons behind enactment of the NDPS Act and the rigour under

Section 37 thereof, need to be considered for a prima facie adjudication while considering the prayer for bail of the petitioner.

16. The statutory control over Narcotic Drugs prior to enactment of the NDPS Act was being exercised under diverse statutes. The provisions of these enactments were found to be inadequate because of the passage of time and developments in the field of illicit trafficking, deal and drug abuse both at national and international levels. To consolidate and amend the then existing statutes relating to Narcotic Drugs a comprehensive legislation was considered to be necessary. Accordingly, the NDPS Act was promulgated to obviate and remove the deficiencies and lacunae in the previously existing drug laws. A scheme was framed which ultimately led to the enactment of the NDPS Act. The said Act prescribes a schedule containing the permissible limit of contraband. In the event the said permissible limit is exceeded, it attracts the rigour of Section 37 of the NDPS Act. In addition thereto, to control illicit drug deals, several other restrictive provisions were also incorporated in the statute. The NDPS Act came into force w.e.f. November 14, 1985.
17. The said Notification issued by the Central Government which was relied upon by the petitioner containing the exception regarding Codeine under Entry 35 thereof was also introduced and came into force on November 14, 1985 and January 29, 1993 when the NDPS enactment was already existing. In the light of the restrictions as to the permissible limit of contraband substance mentioned in the NDPS Act, Entry 35 of the said Notification must be read in conjunction therewith.

18. The NDPS Act has been promulgated to try and curb the menace of dealing in drugs which has a spiraling debilitating effect on the members of the society at large. The provisions of the NDPS Act should be construed in a manner that will further the aforesaid object. A reading of Entry 35 of the Notification clearly shows that the twin conditions as mentioned above should be satisfied strictly.
19. In the facts of this case, the material in the case diary shows that, the petitioner did not disclose an iota of evidence that, he was involved in therapeutic practice. Hence mere concentration of Codeine being not more than 2.5% in undivided preparations in an unit only would not suffice to overcome the rigour of Section 37 and/or the other restrictive and penal provisions under the NDPS Act in dealing with Codeine.
20. *In the matter of: Vibhor Rana (supra)*, the writ petitioner was a sole proprietorship firm under the name and style of 'G.R. Trading Company' which had a drug license under the Drug Rule, 1945, was dealing in the distribution of various pharmaceutical drugs and had entered into an agreement with one M/S Abbott Health Care Pvt. Ltd. under which the proprietorship firm had been made distributor to distribute more than 300 pharmaceutical drugs manufactured by the said Abbott Health Care Pvt. Ltd. Similar fact was there in the other writ petition before the Allahabad High Court. In the backdrop of these glaring distinguishing facts, which are absent in the facts of this case, the prosecution case was quashed against the writ petitioners applying Entry 35 of the said Notification.

21. *In the matter of: Sandip Kumar (supra)*, on the basis of the report of the appropriate drug control Examination Authority (FSL Report) it was adjudicated upon that the recovered contraband substance did not fall under the provisions of NDPS Act and Drugs and Cosmetic Act, 1940 was violated. Thus, the ratio of this judgment has no application in the facts of this case.
22. *In the matter of: Iqbal Singh (supra)*, the prosecution recovered two types of substances namely Onerex and Wincerex. The complaint does not mention recovery of any bottle described as Wincerex Cough Syrup. The samples were analyzed and two of the samples contained 0.17% Codeine Phosphate and the other two bottles contained 0.18% Codeine Phosphate. In the facts of this case no such chemical report has been prepared and the seizure list showed 40 bottles of Onerex Cough Syrup. The statement of the petitioner in this case recorded under Section 161 of the Code of Criminal Procedure, 1973 corroborates the prosecution case. In the facts of the said judgment there was a detailed analysis report of the contraband substance on record obtained by the prosecution and the same is not available in the present case as that stage has not yet been reached. Thus, the ratio of the said judgment *in the matter of: Iqbal Singh (supra)*, has no application in the facts of this case.
23. *In the matter of: Mohd Ashan (supra)*, an interim bail was granted to the accused as the issues raised before the Learned Single Judge of the Delhi High Court was referred before a Larger Bench. Thus, the ratio of this judgment has no application in the facts of this case on its precedential value.

24. *In the matter of: Hira Singh & Anr. (supra)*, Entry No.35 of the said Notification was considered and the law laid down was that in case of syrup of mixture of Narcotic Drugs or Psychotropic substances with one or more neutral substance(s) the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by weight of the offending drug while determining the small or commercial quantity of the Narcotic Drugs or Psychotropic substances and to this extent the previous judgment of the Supreme Court *in the matter of: E. Micheal Raj vs. Intelligence Officer, NCB* stood overruled. In the present case, according to the said judgment of the Supreme Court the entire content of the recovered 40 bottles of Onerex Cough Syrup should be taken into account and thus, the ratio of the said judgment has no application in the facts of this case.
25. *In the matter of: Md Sahabuddin (supra)*, the Hon'ble Supreme Court was pleased to observe as under:

*"10. At the very outset, the abovesaid submission of the learned counsel is liable to be rejected, inasmuch as, the conduct of the appellants in having transported huge quantity of 347 cartons 100 bottles in each carton of 100 ml. Phensedyl cough syrup and 102 cartons, each carton containing 100 bottles of 100 ml. Recodex cough syrup without valid documents for such transportation cannot be heard to state that he was not expected to fulfill any of the statutory requirements either under the provisions of Drugs & Cosmetics Act or under the provisions of the N.D.P.S. Act.*

*11. It is not in dispute that each 100 ml. bottle of Phensedyl cough syrup contained 183.15 to 189.85 mg. of codeine phosphate and the each 100 ml. bottle of Recodex cough syrup contained 182.73 mg. of codeine phosphate. When the appellants were not in a position to explain as to whom the supply was meant either for distribution or for any licensed dealer dealing with pharmaceutical products and in the absence of any other valid explanation for effecting the transportation of such a huge*

quantity of the cough syrup which contained the narcotic substance of codeine phosphate beyond the prescribed limit, the application for grant of bail cannot be considered based on the above submissions made on behalf of the appellants.

12. The submission of the learned counsel for the appellants was that the content of the codeine phosphate in each 100 ml. bottle if related to the permissible dosage, namely, 5 ml. would only result in less than 10 mg. of codeine phosphate thereby would fall within the permissible limit as stipulated in the Notification Dated 14.11.1985 and 29.1.1993. as rightly held by the High Court, the said contention should have satisfied the twin conditions, namely, that the contents of the narcotic substance should not be more than 100 mg. of codeine, per dose unit and with a concentration of not more than 2.5% in undivided preparation apart from the other condition, namely, that it should be only for therapeutic practice. Therapeutic practice as per dictionary meaning means 'contributing to cure of disease'. In other words, the assessment of codeine content on dosage basis can only be made only when the cough syrup is definitely kept or transported which is exclusively meant for its usage for curing a disease and as an action of remedial agent.

13. As pointed out only by us earlier, since the appellants had no documents in their possession to disclose as to for what purpose such a huge quantity of Schedule 'H' drug containing narcotic substance was being transported and that too stealthily, it cannot be simply presumed that such transportation was for therapeutic practice as mentioned in the Notifications dated 14.11.1985 and 29.1.1993. Therefore, if the said requirement meant for therapeutic practice is not satisfied then in the event of the entire 100 ml. content of the cough syrup containing the prohibited quantity of codeine phosphate is meant for human consumption, the same would certainly fall within the penal provisions of the N.D.P.S. Act calling for appropriate punishment to be inflicted upon the appellants. Therefore, the appellants' failure to establish the specific conditions required to be satisfied under the above referred to notifications, the application of the exemption provided under the said notifications in order to consider the appellants' application for bail by the Courts below does not arise".

26. In the matter of: Rakesh Kumar (supra), the Hon'ble Supreme Court was pleased to observe as under:

"11. In the present case, the accused respondents were found in bulk possession of manufactured drugs without any valid authorization. The counsel on behalf of the appellant State has

*extensively stressed that the actions of the accused Respondents amounts to clear violation of Section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic substances except for medicinal or scientific purposes, in furtherance of the same, the counsel on behalf of the appellant State has put emphasis on the judgment rendered by this court in the case of Union of India V. Deshpande (supra), wherein it was held that:*

*25. In other words, DEALING IN narcotic drugs and psychotropic substances is permissible only when such DEALING is for medical purposes or scientific purposes. Further, the mere fact that the DEALING IN narcotic drugs and psychotropic substances is for a medical or scientific purpose does not by itself lift the embargo created Under Section 8(c). Such a dealing must be in the manner and extent provided by the provisions of the Act, Rules or Orders made thereunder, Sections 9 and 10 enable the Central and the State Governments respectively to make rules permitting and regulating various aspects (contemplated under Section 8(c), of DEALING IN narcotic drugs and psychotropic substances.*

*26. The Act does not contemplate framing of rules for prohibiting the various activities of DEALING IN narcotic drugs and psychotropic substances. Such prohibition is already contained in Section 8(c). It only contemplates of the framing of Rules for permitting and regulating any activity of DEALING IN narcotic drugs or psychotropic substances (emphasis supplied)*

*12. In the present appeals before us, the trial courts after analyzing the evidence placed before them, held the accused Respondents guilty beyond reasonable doubt and convicted them for offences committed under Section 21 and Section 22 of the N.D.P.S Act.*

*13. The counsels for the accused respondents have strongly supported the judgment of the High Court wherein it was held that, since the present matters deal with manufactured drugs the present respondents should be tried for the violation of provisions of Drugs and Cosmetics Act, 1940.*

*14. However, we are unable to agree on the conclusion reached by the High Court for reasons stated further. First, we note that Section 80 of the N.D.P.S Act, clearly lays down that application of the Drugs and Cosmetics Act is not barred, and provisions of N.D.P.S Act can be applicable in addition to that of the provisions of the Drugs and Cosmetics Act. The statute further clarifies that the provisions of the N.D.P.S Act are not in derogation of the Drugs and Cosmetics Act, 1940. This Court in the case of Union of India*

*V. Deshpande (supra), has held that, 35. Essentially the Drugs & Cosmetics Act, 1940 deals with various operations of manufacture, sale, purchase etc. of drugs generally whereas Narcotic Drugs and Psychotropic Substances Act, 1985 deals with a more specific class of drugs and, therefore, a special law on the subject.*

*Further the provisions of the Act operate in addition to the provisions of 1940 Act. (emphasis supplied)*

*15. The aforesaid decision further clarifies that, the N.D.P.S Act, should not be read in exclusion to Drugs and Cosmetics Act, 1940. Additionally, it is the prerogative of the State to prosecute the offender in accordance with law. In the present case, since the action of the accused Respondents amounted to a prima facie violation of Section 8 of the N.D.P.S Act, they were charged under Section 22 of the N.D.P.S Act.*

*16. In the light of the above observations, we find that decision rendered by the High Court holding that the accused respondents must be tried under the Drugs and Cosmetics Act, 1940 instead of the N.D.P.S Act, as they were found in possession of the manufactured drugs, does not hold good in law. Further, in the present case, the accused respondents had approached the High Court seeking suspension of sentence. However, in granting the aforesaid relief, the High Court erroneously made observations on the merits of the case while the appeals were still pending before it.*

*17. Considering the facts and circumstances of the present case and the gravity of offence alleged against the accused respondents, the order of the High Court directing suspension of sentence and grant of bail is clearly unsustainable in law and the same is liable to be set aside.*

*18. Accordingly the impugned order passed by the High Court is hereby set aside and the concerned authorities are directed to take the accused respondents herein into custody forthwith”.*

*27. In the matter of: Raj Kamal Namdev (supra), the Madhya Pradesh High Court relying upon the ratio laid down in Md Sahabuddin (supra), held that if anyone is found in the possession of cough syrup or medicine containing Codeine Phosphate without valid document then the case will come under the stringent*

provisions of the NDPS Act. Accordingly in view of the rigour under Section 37 of the NDPS Act the prayer for bail was rejected.

28. The twin conditions as mentioned above under Entry 35 of the said Notification are independent of each other and they stand on their separate respective limbs. An accused, to avail of the exception carved out under Entry 35 of the said Notification must satisfy the twin tests together as discussed above and not in isolation, to overcome the rigour of Section 37 and other restrictive provisions in the NDPS Act. The accused must also satisfy in addition to the Codeine content in terms of Entry 35 of the said Notification, that he is engaged in therapeutic practice for medical or scientific purposes by producing necessary evidence, in course of the investigation and subsequently at the trial. A mere statement or contention in the like manner would not suffice to overcome the rigour of the restrictive provisions in drug dealing under the NDPS Act.
29. It is true that bail is the rule and jail is the exception. The right and liberty guaranteed under Article 21 of the Constitution of India is of paramount consideration while adjudicating the prayer for bail. The legislature while enacting the NDPS Act was aware of the existence of Article 21 of the Constitution of India and still enacted the rigour under Section 37 of the NDPS Act and other restrictive and penal provisions thereunder. Such provisions of the NDPS Act must be construed in strict form and manner, of course, this would depend upon facts of each case. In the facts of the instant case, the petitioner having not produced an iota of evidence as to his engagement in any

therapeutic purpose or medical purpose while carrying the Codeine mixtures, had failed to satisfy the twin conditions independently under Entry 35 of the said Notification, as such, the prima facie involvement of the petitioner in the illicit drug dealing at this stage of considering his bail application cannot be ruled out. Thus, the rigours under Section 37 of the NDPS Act are attracted.

30. The charge-sheet has not yet been submitted. The investigation is not complete. One of the co-accused namely Anup Gurung fled away from the vehicle. The statement of the petitioner under Section 161 of the Code of Criminal Procedure corroborates the prosecution case. The gravity of the alleged charges are extremely serious. No procedural infirmity is alleged.
31. On an overall assessment of the facts and circumstances of the case, the material on record and the possible extent of involvement of the petitioner in the alleged offence, and also keeping in view that investigation is yet to be completed, and the restriction in Section 37 of the NDPS Act, we are not inclined to allow the petitioner's prayer for bail.
32. Accordingly CRM **No. 1297 of 2021** stands dismissed.

**(Aniruddha Roy, J.)**

**I agree.**

**(Arijit Banerjee, J.)**