

21.12.2022

Sl. No.1

akd

[Rejected]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (NDPS) 438 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.12.2022 in connection with Birpara Police Station Case No. 32 of 2021 dated 10.03.2021 under Section 20(b)(ii)(c) of the NDPS Act. (NDPS Case No.11 of 2021)

And

In Re: ***Biswajit Sarkar***

... .. Petitioner

Mr. Arkadyuti Pahari
Mr. Arun Pahari
Mr. Biswajit Samanta
Mr. Kamalendu Pahari

... .. for the petitioner

Mr. Aditi Shankar Chakraborty .. Id. Addl. Public Prosecutor
Mr. Biswarup Roy

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than a year. It is further submitted there is no independent witness to the recovery. In the charge-sheet, quantity of narcotic substance seized is recorded as 30.100 kgs. of *Ganja* while in the seizure list, it is noted as 34 kgs.

Learned advocate appearing for the State opposes the prayer for bail.

We have considered the materials on record. Bail prayer of the petitioner was rejected earlier in June, 2022. Impact of non-examination of independent witness requires to be assessed in the light of the materials on record namely, statements of official witnesses and contemporaneous documents i.e. seizure memo during trial. Alleged variation in the quantity of narcotic substance also does not help the petitioner to avoid the statutory restrictions under Section 37 of the

NDPS Act. Under such circumstances, we are not inclined to grant bail to the petitioner.

The application for bail is thus **rejected**.

FSL report be produced before the court below at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)