

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

10.05.2023
Court No.1
(sb 63)

CRM(NDPS) 272 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with C.R. (N.D.P.S.) Case No 45 of 2020 under Section 20(b)(ii)(c) of the NDPS Act, 1985 arising out of Phansidewa Police Station Case No. 362 of 2020 dated 06.08.2020.

And

In the matter of: **Shri Brajkishor**

.**Petitioner.**

Ms. Sidhi Sethia

... For the Petitioner.

Mr. Kallol Acharjee
Mr. Sourav Ganguly

... For the State.

1. The petitioner says that the petitioner is in custody for about 2 years and 8 months. The charges have been framed on 7th August, 2021. The trial has not commenced in true spirit and earnestness. On six consecutive days, when the trial was supposed to take place, the witnesses of the prosecution did not appear and as such arrest warrant has been issued. It is further submitted that though it is alleged that a recovery of 169.2 kgs of contraband articles (ganja) had been recovered from the petitioner but before the learned Magistrate a much lesser quantity in four bags were produced which the learned Magistrate has recorded will not add up to 169.2 kgs.
2. Be that as it may, the recovery is of above commercial quantity aggregating to 169.2 kgs and even if the charge sheet has been filed and the petitioner is in custody for 2 years and 8 months, the presumption under Section 37 of the Narcotic Drugs and Psychotropic

Substances (NDPS) Act 1985 is not rebutted and as such, the prayer for bail of the petitioner is **rejected** at this stage.

3. The Additional District and Sessions Judge 2nd Court (Special Court under NDPS Act) at Siliguri is directed to conclude the trial as expeditiously as possible, preferably within a period of one year from date.
4. The application, being CRM (NDPS) 272 of 2023 is accordingly disposed of.

(Ananya Bandyopadhyay, J.)

(Arindam Mukherjee, J.)