

22.03.2021

Item No.51

Ct.No.28

dc.

Allowed

C.R.M. 795 of 2021

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with N-Case No. 119 of 2019 arising out of Bizpore P.S. Case No. 664 of 2019 dated 13.11.2019 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In Re : **Ashis @ Ashish Lal**

... Petitioner.

Mr. Tapas Kumar Ghosh,
Mr. Tanmay Chowdhury

... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta

... For the State.

This is an application for bail in connection with N-Case No. 119 of 2019 arising out of Bizpore P.S. Case No. 664 of 2019 dated 13.11.2019 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act at the behest of the petitioner.

On the last occasion when the matter was taken up, it was pointed out to us that the charge-sheet was, in fact, filed on 15.06.2020 beyond the statutory period of 180 days. A query was raised whether the charge-sheet was filed earlier and the Special Judge took notice of the same on the said date or in fact, the same was filed on the said date. The matter was adjourned for that day.

The learned advocate for the State submits that the Investigating Officer forwarded the copy of the charge-sheet

to the learned Public Prosecutor within the period of limitation, but the same has not been filed until the said date when the court took notice of the filing of the said charge-sheet. The statutory right is a valuable right and cannot be undermined and/or curbed merely because of the lapses and laches which has no role to play in dispensation of justice. The moment the statutory period for completion of the investigation and filing of the final report is over, a right is immediately accrued to the accused to be released on bail. The learned advocate appearing for the State emphasises on the fact that the charge-sheet was filed before the instant application for bail was filed.

We are unable to comprehend the implication of such submission made before us. Furthermore, the accused was not produced before the Magistrate or the court after 23.04.2020 and the date on which the court noticed the filing of the said charge-sheet. The aforesaid lapses on the part of the prosecution are imminent and evident from the record and no satisfactory answer has come from their end. Admittedly the charge-sheet has been filed beyond the statutory period provided therefor an indefeasible right has been accrued to the petitioner to get statutory bail. We, therefore, allow the petitioner's prayer for bail.

Accordingly, we direct that the petitioner, namely, **Ashis @ Ashish Lal** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to

the satisfaction of the learned Special Judge (NDPS Act) at Barrackpore, North 24-parganas subject to the condition that the petitioner shall attend the case on each date of listing before the learned special court and the default on any solitary occasion without any justifiable cause, the learned special court is at liberty to cancel the bail of the petitioner without any further reference to this Court and on further condition that while on bail, the petitioner shall meet with the Officer-in-Charge of Bizpore Police Station once a week until further orders.

Let the report, as produced by the learned advocate for the State, be kept on record.

The application for bail, being CRM 795 of 2021, is, thus, disposed of.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)