

29.09.2021
tkm/ct 29
sl no. 89

**C.R.M. 5016 of 2021
(Via Video Conference)**

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Newtown P.S case no. 473 of 2019 dated 14.11.2019 under sections 22(c)/27(A)/28/29 of the NDPS Act
And

In Re : Md. Fayaz @ Alam & Ors. petitioners

Mr. D Kar
Mr. S Chowdhury
..... for the petitioners

Mr. M Sur
Mr. D Paramanick
..... for the State

Petitioners seek default bail.

Learned advocate for the petitioners submits that the petitioners were arrested on November 15, 2019. The statutory period of 180 days expired on May 15, 2020. The charge sheet was actually taken on record on June 18, 2020 which is beyond 180 days. He relies upon the judgment of a co-ordinate Bench rendered in CRM 795 of 2021 (*Ashis @ Ashish Lal*) dated March 22, 2021.

Learned advocate for the State opposes the prayer for bail.

An application for default bail was made before the jurisdictional court which was rejected by the order dated July 19, 2021.

In the order of rejection dated July 19, 2021, the jurisdictional court recorded that the charge sheet along with chemical examination report was filed on April 8, 2020 before the learned CJM, Barasat and that due to the ongoing Covid-19 pandemic, the same was not placed before the Special Judge, NDPS

Court, Barasat as the court was not regular in its functioning on day-to-day basis. Moreover, the jurisdictional court recorded that charge sheet was filed within the statutory period of 180 days.

There is no material on record to establish that the finding recorded by the jurisdictional court on the account of filing of charge sheet within 180 days is perverse or that the charge sheet was not filed within the statutory period. The application for bail was also not made prior to June 18, 2020 when according to the petitioner, the charge sheet was taken on record. The application under Section 167(2) of the Criminal Procedure Code was filed before the jurisdictional court only on July 7, 2021. Consequently, the question of petitioner being afforded default bail does not arise. The facts and circumstances obtaining in the present case are entirely different to those obtaining in *Ashis @ Ashish Lal (supra)*. There a finding was returned that charge sheet was filed beyond the statutory period.

Under such circumstances, the prayer for bail is rejected.

(Ananda Kumar Mukherjee, J.)

(Debangsu Basak, J.)