

12.07.2022
Court No.1
SL No.46
pk/AP

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

**CRAN 1 of 2022
In
CRM(NDPS) 35 of 2022**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Cooch Behar Kotwali P.S. Case No.572 of 2019 dated 21.08.2019 under Sections 20(b)(ii)(C)/29 of the NDPS Act.

And

In the matter of: **Angat Kumar @ Angat Roy and Anr.**

....petitioners.

Mr. Jagriti Mishra
Mr. Sabir Ali
Ms. Ananya Bhattacharya
Mr. Subham Gupta
Mr. Debayan Goswami
Mr. Reshab Kumar

...For the petitioners.

Mr. Biswarup Roy

...For the State.

In Re.: CRAN 1 of 2022

CRAN 1 of 2022 has been filed seeking recall of the order dated 2nd March 2022.

Sufficient grounds have been indicated explaining the absence of the petitioner on the said date.

Hence, the order dated 2nd March 2022, is recalled and CRM(NDPS) 35 of 2022 is restored to its original file and number.

In view of the above, CRAN 1 of 2022 is allowed.

In Re.: CRM(NDPS) 35 of 2022

The application for default statutory bail is sought since charge-sheet was not filed within 180 days.

It appears from the record that the charge-sheet was filed on 19th February 2020 whereas it ought to have been filed on 18th February 2020 when 180 days was expired. On the very same day the petitioner's application for default statutory bail was filed.

Reliance is placed by Mr. Mishra, on a decision of a Coordinate Bench dated 10th January 2022 in the case of **Jay Babu Kumar and Anr. Vs. State of West Bengal** being CRM 1132 of 2021 where default bail was allowed.

The Coordinate Bench Court while applying the decision of the Supreme Court in the case of **M. Ravidran Vs. The Intelligence Officer** reported in **(2020) SCC Online 867** and a decision of a coordinate Bench in **CRM 1105 of 2019** held that every minute of detention after 180 days was illegal.

This Court has already taken the view that a day's delay in filing of charge-sheet even under the NDPS Act cannot be fatal to the case of prosecution or otherwise entitle the petitioner to statutory bail. This is so as the prosecution case seeks extension of time upto one year for filing charge-sheet.

In the instant case, this Court cannot be oblivious of the fact that Covid situation has intervened. In any event, cognizance was already taken on 19th February 2020 before the petitioner's application for default statutory bail was made.

The dicta of the Coordinate Bench in the case of ***Jay Babu Kumar (supra)*** or the ***M. Ravidran (supra)*** cannot be applied in the facts of this case.

Accordingly, CRM(NDPS) 35 of 2022 is dismissed.

(Rajasekhar Mantha, J.)

(Ananda Kumar Mukherjee, J.)