

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

10.04.2023
Court No.1
(D/L 1)
(allowed)

CRM (NDPS) 146 OF 2021
With
CRAN 1 of 2021

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 08.12.2021 in connection with Kotwali Police Station Case No.84 of 2020 dated 31.01.2020 under Sections 20(b) (ii) (c)/25/29 of the NDPS Act.

And

In the matter of: **Subhas Yadav**

... Petitioner.

Ms. Ashima Mandla
Mr. Deborshi Dhar
Ms. Mandakini Singh
Mr. Surya Pratap Singh

... for the petitioner.

Mr. Aditi Shankar Chakraborty, APP
Mr. Biswarup Roy

... for the State.

The learned counsel for the petitioner moves his prayer for bail on the ground that he is in custody for more than 180 days. It is submitted that though he had applied for statutory bail, the learned Special Court vide order dated 04.08.2020 rejected his prayer for bail by extending the period of investigation for a further period of two months beyond 180 days on the ground that chemical examination report had not yet been received and that huge quantity of contraband has been recorded in this case.

The petitioner accused is still in custody.

The learned counsel for the petitioner has relied upon the judgment of a Larger Bench of this Court in ***Subhas Yadav versus The State of West Bengal decided on 17.01.2023***, wherein the said circumstances for extending the period of investigation beyond the statutory period of 180 days on the ground of non-receipt of the FSL report was considered and decided by the Larger Bench.

Learned counsel for the petitioner has also placed the order in CRM (NDPS) No.232 of 2023 dated 28.02.2023 passed by a Coordinate Bench of this Court granting bail to an accused on similar footing as in the present case.

Learned public prosecutor appearing in the case and has placed the case diary and objected to the prayer for bail.

Now, considering the materials on record, the judgment of the Coordinate Bench of this Court in CRM (NDPS) No. 232 of 2023 and the Judgment of the Special Bench placed before us and also considering the materials on record in the present case, which includes the report submitted as called for, it is on record that the time for investigation was extended on the ground of non-receipt of the FSL report and as huge quantity of contraband was recovered, which is a fact for which the accused was already in custody for 180 days when he prayed for statutory bail.

Report dated 28.03.2023 filed by the Director General and Inspector General of Police, West Bengal as directed by this Court vide order dated 09.03.2023 is also considered.

Considering all these facts and the present position of law, **(Subhas Yadav (Supra))** the accused/petitioner shall be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of 10,000/- each, one of whom must be local to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri, with a condition that the petitioner will not leave the jurisdiction of the Trial Court without prior permission of the Special Court.

The application for bail is, accordingly, allowed.

[SHAMPA DUTT (PAUL), J.]

(RAJARSHI BHARADWAJ, J.)