

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

04.04.2023
Court No.1
(D/L 36)
(allowed)

CRM (NDPS) 142 OF 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 30.01.2023 in connection with NDPS Case No.126 of 2021 arising out of Birpara Police Station Case No.220 of 2021 dated 18.12.2021 under Sections 20 (b) (ii) (c) of the NDPS Act.

And

In the matter of: **Md. Jiaul Ansari**

... Petitioner.

Mr. Anirban Banerjee

... for the petitioner.

Mr. Aditi Shankar Chakraborty, APP

Mr. Arjun Chowdhury

... 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 17.06.2022 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.

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.

Learned Special Court vide order dated 18.06.2022 took note of the fact that on completion of the statutory period of detention of 180 days charge-sheet had not been submitted and as the period of investigation had already been extended for a further period of 60 days vide order dated 17.06.2022, the prayer for bail of the petitioner/accused was rejected.

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, it is on record that the time for investigation was extended solely on the ground of non-receipt of the FSL report.

Considering all these facts and the present position of law, 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.)