

**09.06.2023**

Ct.No. 1

Item No. 26

Sb / Saswata

**Allowed**

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

**C.R.M. (NDPS) 398 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Bhaktinagar PS case no. 1508 of 2021 dated 26.11.2021 under Sections 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of : **Narayan Sarkar**

...petitioner

Mr. Sudip Guha

...For the petitioner

Mr. Sourav Ganguly

Mr. Arjun Chowdhury

....For the State

1. Learned Counsel for the petitioner submits that although the prayer for bail was rejected earlier, now the petitioner is entitled to statutory bail having regard to the fact that charge sheet was not filed within the statutory period and an application for bail was filed on 20<sup>th</sup> May 2022.
2. Learned Counsel for the State while opposing the prayer for bail, submits that the petitioner filed an application for extension of statutory bail prior to the application filed by the accused for enlarging him on bail. However, the application for statutory bail was rejected prior to

deciding the application for extension of time to file chargesheet.

3. It seems that the Trial Court has overlooked the ratio of the decision of the Hon'ble Supreme Court rendered in the case of ***M Ravindran -vs- The Intelligence Officer***<sup>1</sup> as the Trial Court was required to decide the application for extension of the statutory bail prior to deciding the application for enlargement of the accused on bail.
4. Moreover, it appears that the extension application was filed merely on the ground of non-availability of the FSL report. Under such circumstances, we are of the view that the petitioner is entitled to statutory bail in view of the decision of our Special Bench rendered in the case of ***Subhas Yadav & Ors. vs. State of West Bengal*** <sup>2</sup>. The prayer for bail is thus **allowed** on the following conditions:-

- i. We direct the petitioner to 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 Learned Judge, Special Court under NDPS Act, at Jalpaiguri.

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<sup>1</sup> (2021) 2 SCC 485

<sup>2</sup> 2023 SCC Online Cal 313

- ii. The petitioner shall attend each and every date of trial.
- iii. The petitioner shall not leave the jurisdiction of the jurisdictional Court without prior permission of the Court.
- iv. The petitioner shall not intimidate the witnesses and tamper with the evidence in any manner whatsoever.
- v. In the event of non-compliance of any of the conditions enshrined above, the bail shall stand automatically cancelled without further reference to this Court.

5. CRM (NDPS) 398 of 2023 is, accordingly, **disposed of**.

6. All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

**(Raja Basu Chowdhury, J.)**

**(Soumen Sen, J.)**