

AD-6
Ct No.01
Jalpaiguri
18.09.2023
SP

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 623 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.08.2023 in connection with Matigara Police Station Case No. 781 of 2021 dated 30.07.2021 under Section 21(c) of the NDPS Act, 1985.

And

In the matter of: SRI MOHAN SINGH AND ANR

.... petitioners

Mr. Arnab Sengupta
Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. Meghna Joshi

... for the petitioners

Mr. Aditi Shankar Chakraborty
Mr. Aniruddha Biswas

... for the State

1. Learned counsel for the petitioner argues that the petitioner was entitled to statutory bail at the relevant juncture. By placing reliance on the order dated January 25, 2022 passed by the Special Court NDPS, Siliguri, it is argued that the said Court acted *de hors* the law in extending the time for filing charge-sheet. It is argued, by placing reliance on the well settled judgment of *Subhas Yadav versus State of West Bengal*, that mere non-submission of FSL report is not a sufficient ground for extending the time for filing charge-

sheet, since the same is an institutional lacuna. Learned counsel also cites several coordinate Bench judgments of this Court which have followed the ratio laid down in *Subhas Yadav* subsequently.

2. Learned counsel appearing for the petitioner further argues that the petitioner is in custody for more than two years.
3. Learned counsel for the State opposes the prayer for bail and argues that the examination of the witnesses is going on. That apart, a coordinate Bench judgment in *Maharaj Singh & Anr.* is also cited, where the Court took into consideration the fact that on the 179th day of detention, report of the Investigating Officer seeking extension was duly served and on the next day application was filed and came to be allowed, which was never assailed by the petitioner. It is contended that as per the judgment of the coordinate Bench in *Maharaj Singh & Anr.*, since the petitioner did not assail the order extending the period of detention prior to completion of the investigation, subsequently the same lost relevance upon filing of charge-sheet.
4. We find from the facts of the present case that the petitioner did not challenge the order granting extension of the time for filing charge-sheet vide Order no. 11 dated January 25, 2022 of the Special Court NDPS Act.
5. Thus, we are at one with the ratio laid down in the coordinate Bench in *Maharaj Singh & Anr.* It was rightly

observed by the coordinate Bench there that since the petitioner has permitted the order of extension to attain finality and subsequently charge-sheet has been filed, there is no question of reopening of the said order after one and half years have elapsed.

6. In any event, the prosecution is confident that the Trial would be over by six months. Further, we find that not only has the charge-sheet been filed long back but the examination of the witnesses is going on in full swing. Hence, the purpose of justice would suffice in the event the Trial Court concludes the Trial within six months from date.
7. Accordingly, CRM (NDPS) 623 of 2023 is allowed, directing the Trial Court to conclude the trial within six months.
8. Liberty to the petitioner to renew the prayer for bail in the event the trial is not concluded within the said period.
9. On the prayer of learned counsel for the State, let the order be communicated through the registry.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)