

20.03.2024
Sl. No.16
akd
[Rejected]

C. R. M. (NDPS) 535 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.03.2024 in connection with Biashnabnagar Police Station Case No.463 of 2023 dated 19.07.2023 under Sections 21(c)/25/27A/29 of the NDPS Act. (NDPS Case No.75 of 2023)

And

In Re: ***Mosaraf & Anr.***

... .. Petitioners

Md. Wasim Akram

... .. for the petitioners

Mr. Suman De

... .. for the State

1. It is submitted on behalf of the petitioners that the Investigating Agency submitted incomplete charge sheet on the 180th day. Instead of taking cognizance, learned Judge directed the Investigating Officer to be personally present and adjourned the hearing till the 183rd day of detention. At that stage, petitioners prayed for statutory bail which came to be rejected. Accordingly, they pray for statutory bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Investigating Agency had submitted police report on the 180th day of detention. It is contended no cognizance was taken on the said report as the Judge was of the opinion it is an incomplete one. Accordingly, petitioners ought to be released on statutory bail.
4. Right to statutory bail crystallizes in the event police report is not filed within 180 days of arrest. In the present case, police report was filed on the 180th day of detention and hence, the Judge has rightly

come to a conclusion that no right to statutory bail had accrued to the petitioners.

5. We do not express any opinion with regard to the right of the petitioners to statutory bail on the ground the police report is an incomplete one in view of the observations of the Hon'ble Apex Court in *Directorate of Enforcement vs. Manpreet Singh Talwar*¹.
6. The application for statutory bail is thus rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 751