

16. 27.11.2024
Court
No.29 (Pritam)
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (NDPS) 1360 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Contai** Police Station Case No. **607 of 2023** dated **26.12.2023** under Sections 21(b)(ii)(c) of the Narcotic Drugs & Psychotropic Substances Act.

And

In the matter of: - **Shakuntala Kamila.**

...petitioner.

Mr. Md. Sabir Ahmed,
Mr. Bhaskar Hutait,
Mr. Dhiman Banerjee

...for the petitioner

Mr. Debashis Roy, Ld. P.P.
Mr. Rana Mukherjee, Ld. A.P.P
Ms. Pritha Paul

...for the State.

Dictated by Arijit Banerjee, J.

1. The sole point for consideration now is whether or not time for completion of investigation was extended on the prayer made by the learned Public Prosecutor following the provisions of Section 36(A)(4) of the NDPS Act.
2. Learned advocate for the petitioner says that on 19th June, 2024 on the prayer of the Investigating Officer, the Presiding Officer-in-Charge had extended the time to complete the investigation till June 27, 2024. On June 27, 2024, the time was further extended again not on the basis of any

application made by the learned Public Prosecutor but on the basis of the Investigating Officer's request. This is impermissible, not in accordance with law and shall fatally affect the prosecution case.

3. Learned A.P.P. tried to impress upon us that there was an application made by the learned Public Prosecutor and on that basis, time was extended.
4. Even assuming that there was an application made by the learned Public Prosecutor on June 19, 2024, which is disputed by learned advocate for the petitioner, the Presiding Officer-in-Charge disposed of such application by extending the time for completing investigation till June 27, 2024. On June 27, 2024, when the time was further extended, there was no application of the learned Public Prosecutor before the learned trial court. Therefore, there has been infraction of Section 36(A)(4) of the NDPS Act, which has been held to be mandatory by the courts.
5. In that view of the matter, we are of the opinion that a right of statutory bail as accrued in favour of the petitioner and therefore, we **allow** the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Shakuntala Kamila** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special Court, Tamruk, Purba Medinipur. The petitioner shall appear before the trial

Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of the local police station and shall fully cooperate with the Investigating Officer as and when required.

7. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this court.
8. The application for bail being CRM (NDPS) 1360 of 2024 is, thus, disposed of.
9. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
10. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)