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20-11-2024  
(ct. no.29)  
S. De  
(Allowed)

## CRM (NDPS) 1491 of 2024

**In re:** An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Nabagram Police Station Case No. 429 of 2023 dated 04.12.2023 under Sections 21(c)/29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

**In the matter of : Mainul Hasan @ Chand Sk.**

.... Petitioner.

Mr. Soumyajit Das Mohapatra,  
Md. G.M. Imrohi,  
Mr. Madhurai Sinha

... For the Petitioner.

Md. Adil Badr,  
Mr. Rajesh Jana,

... For the State.

### **Order dictated by Arijit Banerjee, J.**

1. The petitioner says that he is in custody for 11 months. Chargesheet has been filed on the 183<sup>rd</sup> day after the petitioner's arrest but without FSL report. Relying on the decision of this Bench rendered on October 8, 2024 in CRM (NDPS) 1359 of 2024 (Idul Mia Vs. The State of West Bengal), the petitioner prays for bail.
2. Learned advocate for the State says that fourteen hundred bottles of Phensedyl Syrup containing Codine Phosphate was recovered from the possession of this petitioner. However, he fairly submits that even as of today, the FSL report is not available.
3. Since it has been held by us in the matter of Idul Mia, following a co-ordinate Bench decision in the case of Rakesh Sha that a chargesheet, filed without FSL report in a case under the NDPS

Act is not a chargesheet at all, hence, we have to hold that no chargesheet within the meaning of Criminal Procedure Code has still been filed. Hence, the petitioner is entitled to statutory bail.

4. Accordingly, we direct that the petitioner, namely, **Mainul Hasan @ Chand Sk** shall be released on bail upon furnishing a bond of Rs. 25,000/- with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court (under the NDPS Act), Berhampore, Murshidabad and on further conditions that he shall not leave the jurisdiction of Berhampore Police Station under Murshidabad jurisdiction, and shall meet the Inspector-in-Charge of the concerned police station once in a fortnight until further orders.
5. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
6. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.
7. The application for bail is, accordingly, allowed.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

**(Apurba Sinha Ray, J.)**

**( Arijit Banerjee, J. )**