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02-12-2024
(ct. no.29)
S. De
(Allowed)

CRM (NDPS) 1555 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 **Palashipara Police Station Case No.136 of 2024 dated 11.03.2024 under Sections 21(C)/29**, of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Mojaffar Mondal. Petitioner.

Mr. Sekhar Basu, Sr. Adv.
Mr. Soumyajit Das Mahapatra,
Ms. Soma Mal,
Ms. Rabia Khatoon,
Ms. Jame Modak, ... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Ms. Rita Dutta, ... For the State.

Order dictated by Arijit Banerjee, J.

1. It is not in dispute that the chargesheet was filed without the FSL report. The FSL report was brought on record by way of a supplementary chargesheet after the petitioner filed an application for statutory bail before the learned Trial Court upon expiry of 180 days from the date of his arrest. The learned trial Court rejected the application. Hence, this application.
2. Learned State advocate, in his usual fairness, does not dispute that the chargesheet was not accompanied by the FSL report. The FSL report was filed only after the petitioner exercised his right to obtain statutory bail by filing application before the learned Trial Court.
3. This Bench, following the previous Division Bench decision in the case of **Rakesh Sha Vs. State of West Bengal** reported at **2023 SCC OnLine Cal 2463**, has held that a chargesheet filed without the FSL report is not a chargesheet within the meaning

of the Code of Criminal Procedure. Therefore, if a chargesheet was filed within 180 days without the FSL report, upon expiry of 180 days, the petitioner can claim statutory bail as of right.

4. In view of the aforesaid, we have no option but to allow the present application.
5. Accordingly, we direct that the petitioner, namely, **Mojaffar Mondal** 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), Nadia, Krishnagar, subject to the condition that the petitioner shall not leave the jurisdiction of the concerned Police Station and shall meet the Officer-in-Charge of the concerned Police Station, once in a fortnight until further orders.
6. 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.
7. 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.
8. The application for bail is, accordingly, allowed.
9. 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.)