

45.
02-12-2024
(ct. no.29)
debajyoti
(allowed)

CRM (NDPS) 1644 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with Howrah GRPS Police Station Case No.97 of 2023 dated 25-08-2023 under Sections 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Debika Barik

.... Petitioner.

Mr. Aniruddha Bhattacharya,
Ms. Anuska Bose,
Ms. Rai Das,
Mr. Uttam Mukherjee

... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakrabarty,
Ms. Sima Biswas

... For the State.

Dictated by Arijit Banerjee, J.

1. The petitioner prays for statutory bail. She says that she was arrested on August 25, 2023. The charge sheet was filed on February 16, 2024, but without the FSL report. On September 04, 2024, she applied for statutory bail before the learned trial Court. The learned trial Court rejected the prayer. Hence, this application was filed on September 30, 2024.

2. While opposing the prayer for bail, learned State advocate says that the FSL report has been filed by way of a supplementary charge sheet on September 16, 2024. However, in his usual fairness, he admits that prior thereto, the petitioner exercised her right to obtain statutory bail. Therefore, subsequent filing of the FSL report with the

supplementary charge sheet would not defeat such right of the petitioner. We appreciate the fair stand of the learned State advocate. He is absolutely right. Once an accused person exercises his/her right to obtain statutory bail by filing an application prior to complete or lawful charge sheet being filed, an indefeasible right accrues in favour of that person. Subsequent filing of complete or lawful charge sheet cannot take away such right.

3. Following the ratio in the case of *Idul Mia* [Ref : CRM (NDPS)/1359/2024], we are constrained to allow the bail prayer of the petitioner.

4. Accordingly, we direct that the petitioner, namely, **Debika Barik**, 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 under NDPS Act-cum-Additional District Judge, 3rd Court, Howrah. The petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of Howrah Police Station, until further orders.

5. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel her bail in accordance with law without further reference to this Court.

6. The application for bail is, thus, **allowed**.

7. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

8. 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.)