

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1663 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 **Dalkhola** Police Station Case No. **62/2024** dated **04.03.2024** under Sections **21(c)/23(c)/29** of the Narcotic Drugs & Psychotropic Substances Act, 1985 and read with Section **25/27** of the Arms Act.

And

In the matter of: - **Habibur Rahaman.**

...petitioner.

Mr. Navanil De,
Mr. Abhishek Sikdar,
Mr. Srinjan Ghosh

...for the petitioner.

Mr. Joydeep Biswas,
Mr. Subhajit Chowdhury

...for the State.

Dictated by Arijit Banerjee, J.

1. Memo of Evidence filed on behalf of the State be kept with the records.
2. We see that the FSL report was filed in November 26, 2024.
3. It is not in dispute that the petitioner had approached the learned trial court for obtaining bail prior to expiry of 180 days from the date of his arrest. By an order dated August 22, 2024, the learned trial court rejected such prayer.

4. The present application was filed before us on October 3, 2024, i.e., after expiry of 180 days from the date of the petitioner's arrest on August 31, 2024.
5. The charge-sheet was filed on August 17, 2024 but without the FSL report. Therefore, going by the decisions in the Cases of *Rakesh Singh @ Rakesh Kumar Singh* in CRM 3152 of 2021 and *Idul Mia* in CRM (NDPS) 1359 of 2024 the petitioner became entitled to statutory bail on September 1, 2024. We can consider the present application as one whereby the petitioner has exercised such right. Once he has exercised such right, which is an indefeasible right as held by the Hon'ble Supreme Court, subsequent filing of the FSL report will not make any difference and will not adversely affect that right of the petitioner.
6. In view of the aforesaid, we have no choice but to grant default bail to the petitioner.
7. Hence, we **allow** the petitioner's prayer for bail.
8. Accordingly, we direct that the petitioner, namely, **Habibur Rahaman** 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 *Special Judge (NDPS)*, Raiganj, Uttar Dinajpur. 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 report to the Officer-in-Charge/Inspector-in-Charge of the said police station once in a fortnight, until further orders.

9. 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.
10. The application for bail being CRM (NDPS) 1663 of 2024 is, thus, disposed of.
11. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
12. 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.)