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16-12-2024
(ct. no.29)
S. De
(Allowed)

CRM (NDPS) 1670 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 **Kumarganj Police Station Case No.370 of 2023 dated 13.12.2023** under Sections **21(c)/22(c)/23(c)/27A** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Dhananjay Halder & Anr. Petitioners.

Mr. Anirban Guhathakurta,
Mr. Sujon chatterjee,
Mr. Rohan Bavishi,
Mr. Souparna Sinha, ... For the Petitioners.

Mr. Partha Pratim Das,
Mr. Subhajit Chowdhury, ... For the State.

Order dictated by Apurba Sinha Ray, J.

1. Learned advocate for the petitioners submits that the petitioners are in custody for a year and chargesheet filed on June 10, 2024, did not contain the relevant FSL report in respect of contraband items which were allegedly recovered on the basis of leading statement made by these petitioners.
2. The prosecution is unable to submit any FSL report till date and as such the petitioners may be granted bail on any condition.
3. Learned counsel for the State opposes the prayer for bail. However, in his usual fairness, learned counsel for the State submits that the chargesheet did not contain the FSL report in respect of the relevant contraband articles as aforesaid and further the petitioners are taking part in the trial and, therefore, if the petitioners are granted bail, the prosecution may suffer a lot.

4. We have considered the materials on record. We find that the chargesheet was filed without FSL report on June 10, 2024 and the statutory period of 180 days in respect of the petitioners were completed on June 14, 2024 so far as regards the relevant FSL report is concerned.
5. However, we find that the petitioners did not exercise their rights for statutory bail in respect of the relevant FSL report. But as the petitioners have come up with the present petition praying for bail on the ground of non-availability of FSL report, in view of the judicial decision of **Idul Mia** in **CRM (NDPS) 1359 of 2024**, the present petition can be treated as prayer for statutory bail on behalf of the petitioners. It is found from the records that till date the investigating agency is unable to produce the relevant FSL report before the learned trial Court. In view of the above, we are inclined to allow the prayer for bail of the present petitioners but on certain conditions.
6. Accordingly, we direct that the petitioners, namely, **Dhananjay Halder** and **Bidhan Halder** shall be released on bail upon furnishing a bond of Rs. 25,000/ each 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), Balurghat, Dakshin Dinajpur subject to the condition that the petitioners shall remain within the jurisdiction of Kumarganj Police Station and shall meet the Officer-in-Charge, Kumarganj Police Station, once in every week until further orders.

7. The petitioners 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.
8. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.
11. 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.)