

20.12.2024
Item no. 49.
Court No.29.
AB
(Allowed)

CRM (NDPS) 1784 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Nischinda Police Station Case No.68 of 2023 Dated 28.04.2023 under Sections 21C/27A/29 of the NDPS Act

And

In the matter of : Raju Ray @ Roy **.....Petitioner.**

Md. Yasim Akram,
Ms. Sabrin Parveenfor the Petitioner.

Mr. Dipankar Paramanik.....for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner was arrested on April 28, 2023. Charge sheet was filed on the 175th day after his arrest i.e., on October 19, 2023, but without the FSL report. 180 days from the date of the petitioner's arrest expired on October 24, 2023. He says that he immediately became entitled to statutory bail since the FSL report was still not on record. He applied before the learned Trial Court on September 24, 2024 for default bail. Such application having been dismissed, he is before us.
2. Learned Advocate for the State says that the FSL report was collected on November 14, 2024. By way of supplementary charge sheet, the FSL report was filed before the learned Trial Court on November 27, 2024.

3. Once the right to avail of default bail accrues to an accused and he exercises such right, subsequent filing of the FSL report would not defeat such right of the accused. This would follow from several decisions of the Hon'ble Supreme Court and our decision in the case of ***Idul Mia* in CRM (NDPS) 1359 of 2024**.
4. Admittedly, the petitioner exercised his right to obtain statutory bail prior to the FSL report being brought on record as part of the charge sheet. As has been held in ***Idul Mia* in CRM (NDPS) 1359 of 2024**, a charge sheet filed without the FSL report is not a charge sheet within the meaning of the provisions of the Code of Criminal Procedure, 1973.
5. In view of the aforesaid, we are constrained to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **RAJU RAY @ ROY** 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 at Howrah, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

7. 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 and/or commit any cognizable offence in any manner whatsoever.
8. 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.
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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)