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20-12-2024
(ct. no.29)
S. De
(Allowed)

CRM (NDPS) 1788 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 **Raninagar Police Station Case No.127 of 2024 dated 29.02.2024 under Sections 21(C)** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Mithun Mondal.

.... Petitioner.

Mr. Arnab Chatterjee,
Ms. Dhanasree Biswas,
Ms. Poulami Bose,

... For the Petitioner.

Ms. Anasuya Sinha,
Mr. Saptarshi Chakraborty,

... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner says that he was arrested on February 29, 2024.

Chargesheet was filed on August 14, 2024, but without the FSL report. 180 days from the date of the petitioner's arrest expired on August 29, 2024. On November 12, 2024, the petitioner filed the present application for bail. The FSL report is still not on record.

2. Learned advocate for the State, while opposing the prayer for bail, in her usual fairness, says that it is true that the FSL report is still not available. However, commercial quantity of contraband items was recovered from this petitioner.

3. As has been held in the case of **Idul Mia [CRM (NDPS) 1359 of 2024]**, a chargesheet filed sans the FSL report is not a chargesheet within the meaning of the provisions of the Code of Criminal Procedure 1973. Even if such an incomplete

chargesheet is filed within 180 days from the date of the accused person's arrest, upon the expiry of 180 days, the accused person becomes entitled to statutory bail.

4. In the present case, the incomplete chargesheet was filed on August 14, 2024. Upon the expiry of August 29, 2024, a right of availing of statutory bail accrued in favour of the petitioner. He exercised such right by filing the present application. The present application may be treated as an application for exercising the right to obtain statutory bail as has been held in the case of **Habibur Rahaman [CRM (NDPS) 1663 of 2024]**. Admittedly, FSL report is still not on record.
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, **Mithun 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), Berhampore, Murshidabad 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.
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 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.
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.)