

AD-6
Ct No.01
Jalpaiguri
23.07.2024
SP

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 266 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with New Jalpaiguri Police Station Case No. 1148 of 2023 dated 18.12.2023 under Sections 20(b)(ii)(c)/25/28/29 of the NDPS Act, 1985, charge sheet submitted vide Charge Sheet No.387 of 2024 dated 11.06.2024 under Sections 20(b)(ii)(c)/25/28/29 of the NDPS Act, 1985 .

And

In the matter of: **RINTU KUMAR PRASAD AND ANR**

. . . .for the petitioners

Ms. Upashana Chetri, Adv.,

... for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Kallol Nag, Adv.

... for the State

1. Learned counsel for the parties, in their usual fairness, point out that the issue as to whether non-filing of FSL report with the charge-sheet vitiates the process and as such entitles the accused to bail is under consideration at present in a reference to a larger Bench before the Supreme Court.
2. Upon a considered view of the matter, we find that there are views expressed by the Supreme Court and different High Courts either way.
3. Since the issue is pending before the larger Bench, under normal circumstances, a liberal view ought to be taken in

favour of the accused, keeping in view the principles enshrined in Article 21 of the Constitution of India.

4. However, in view of the pendency of the issue before the Supreme Court, at this juncture, we feel it premature to grant bail to the petitioner, since the charge-sheet has been filed without the FSL report only on June 11, 2024 and some further time ought to be given to the Investigating Agency to file the FSL report.
5. It is expected that such report shall be filed latest within a month from date.
6. Although, in view of the above observations, we choose not grant bail to the petitioner at this juncture, leave is granted to the petitioner to apply for bail after a month in the event the FSL report is not filed till then. In the light of the above observations, CRM (NDPS) 266 of 2024 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)