

AD-16
Ct No.01
Jalpaiguri
25.07.2024
B.Pal

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

CRM (NDPS) 303 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.07.2024 in connection with Birpara Police Station Case No. 13 of 2024 dated 21.01.2024 under Sections 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of: AMAR BAHADUR CHHETRI

...Petitioner

Mr. Sourav Ganguly,
Ms. Deblina Ray,
Mr. Gopal Roy,
Ms. Rishita Chakraborty

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Arjun Chowdhury

... for the State

1. The petitioner seeks default bail on the ground that the statutory period of completion of investigation expired on July 19, 2024. On July 22, 2024 at 10:30 AM, the petitioner filed a put up petition for his application for bail to be taken up, with prior notice on July 21, 2024.
2. Learned counsel for the petitioner submits that it is a matter of practice in the concerned Court that put up petitions are always filed at 10:30AM at the first sitting of Court.

3. It transpires from the charge-sheet, particularly the endorsement thereon, that the charge-sheet was received from the Public Prosecutor's office by the officer of the Court at 12:30 PM on July 22, 2024, that is, subsequent to the expiry of the statutory outer limit and even after the application for bail was filed by the petitioner and the put up was given.
4. Learned counsel places reliance on the celebrated judgment of *M. Ravindran vs. Intelligence Officer, Directorate of Revenue Intelligence* reported at (2021) 2 SCC 485, where it was specifically observed by the Supreme Court that once the accused files an application for bail under the proviso to Section 167(2) he is deemed to have "availed of" or enforced his right to be released on default bail, irrespective of when the said application was taken up for passing orders.
5. Learned counsel for the State opposes the prayer for bail and submits that there was no fault on the part of the investigating team in the delay occasioned in the present case.
6. It would be much appreciated if the concerned Public Prosecutor would have been diligent enough to place the charge-sheet before the Court as and when the same reached his office, allegedly on June 20, 2024. However, be that as it may, the petitioner cannot suffer for such lapse on the part of the prosecution, being entitled to default bail under the

provisions of Section 167 of the Code of Criminal Procedure.

Thus, we do not find any reason as to why such benefit ought not be granted to the petitioner.

7. In view of the above observations, CRM (NDPS) 303 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court (NDPS Act), Alipurduar.
8. It is made clear that in view of the peculiar circumstances of the concerned area, the expression “local”, which qualifies the term sureties, shall not be construed to be a person who must have landed property within the territorial jurisdiction of the concerned Court.
9. The petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial and shall attend each and every date of trial.

Further, the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)