

AD-25
Ct No.01
Jalpaiguri
22.08.2024
sp

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

CRR 309 of 2024

In Re: - An application for cancellation of bail under Section 439 (2) of the Code of Criminal Procedure, 1973 corresponding to Section 483(3) read with Sections 442 and 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and 36B of the NDPS Act, 1985.

And

In the matter of: State of West Bengal

.. petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas,
Ms. Namrata Das

... for the petitioner

Mr. Kunaljit Bhattacharjee,
Mr. Alok Sah

...for the Opposite Party nos. 1 and 2

1. The accused is represented.
2. It is submitted that the order sheet of the Court below indicates that the charge sheet was actually filed on 7th May, 2024 in the Court below. It, however, appears that the charge sheet is dated 18th March, 2024 under Section 21(C) of the NDPS Act.
3. The said charge sheet would, therefore, have received the approval and finality at the police station. The Investigating Officer ought to have filed the charge sheet immediately. Records are not before this Court.

4. It further appears that the Public Prosecutor has received the charge sheet from the Investigating Officer on 1st April, 2024 under his own signature. The charge sheet was, therefore, submitted in accordance with the provisions of Section 173 of the Cr. P.C. and submitted to the Public Prosecutor on 1st April, 2024 within 158 days, i.e., well before this expiry of 180 days. The petitioner could not have been given default bail under Section 160(2) of the Cr. P.C. by the Court below.
5. The delay or omission on the part of the Public Prosecutor can neither cast an aspersion on the Investigating Officer nor cannot entitle the accused to the benefit of default bail.
6. The bail granted to the accused, Sanjit Seikh @ SK and Imran Hussain by the Judge NDPS, 2nd Court Siliguri vide Order No. 12 dated 29th April, 2024 shall stand set aside and cancelled.
7. The accused shall surrender before the Court below forthwith. In default of surrender of the accused, the Special Court shall be entitled to take all and every measure to arrest the accused person.
8. This Court does not rule out, foul play in the facts and circumstances of the case. This Court, therefore, directs the office of the Legal Remembrancer and the learned Advocate General to look into the matter as to why the Public Prosecutor in the instant case has not filed the charge sheet or produced the same in Court when default bail is being sought by the accused.

9. The District Judge, Darjeeling shall also cause enquiry into the matter as to whether the charge sheet was, in fact, available with the records of the Special Court, NDPS on 29th April, 2024 and submit a report to the Registrar General of this Court at the principal bench within a period of one month from the date of receipt of a copy of this order.
10. With the aforesaid observations, the instant criminal revisional application shall stand disposed of.
11. All the parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)

(Rajasekhar Mantha, J.)