

28.11.2024
SL No.9
s.biswas
(Allowed)

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

C.R.M. (NDPS) 500 of 2024

In Re: - An application for bail under Section 483 of the BNSS in connection with **Maynaguri** P.S. Case No. **159/2024** dated **25.04.2024** under Sections **8(c)/20(b)(ii)(C)/25/29** of the NDPS Act.

And

In the matter of: **Rafikul Ali**

....Petitioner

Dr. Arjun Chowdhury
Ms. Pratusha Dutta chowdhury
Ms. Riya Agarwal
Mr. Koushik Kr. Kanu
Ms. Tulip Saha
Mr. Dibyajyoti Bhowmik

...for the Petitioner

Mr. Abhijit Sarkar
Ms. Namrata Das (VC)

...for the State

1. The petitioner has been custody for 201 days. The petitioner prays for bail on three grounds: (i) parity, (ii) uncertainty in the conclusion of trial and (iii) charge-sheet was filed without the FSL report.
2. Learned counsel appearing for the State submits that commercial quantity of contraband article was seized from the joint possession of six persons. Whether the petitioner was entitled to default bail at the relevant time on the ground that the charge-sheet was filed without the FSL report, is yet to be decided by the Hon'ble Apex Court. Thus, the petitioner cannot take the benefit of such fact at this stage.

3. Upon perusal of the materials on record and considering the fact that charge-sheet was admittedly submitted without the FSL report, co-accused persons had been released on bail by a Co-ordinate Bench in CRM (NDPS) 467 of 2024 and by us in CRM (NDPS) 521 of 2024 and CRM (NDPS) 510 of 2024. On the ground of parity and uncertainty in conclusion of trial and as the FSL report is yet to arrive, we are of the view that on the touchstone of Article 21 of the Constitution of India, the petitioner should be released on bail.
4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of equal amount each, one of whom must be local, to the satisfaction of the Learned Special Court under NDPS Act, Jalpaigur, subject to the condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders, subject to the provision of Section 317 of the Code of Criminal Procedure corresponding to Section 355 of the BNSS, 2023 and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future. The petitioner will remain within the jurisdiction of the trial court until further orders.
5. In the event the petitioner fails to comply with the conditions as stated hereinbefore, it is open to the trial court to cancel the bail of the petitioner without any further reference to this Court.
6. The application for bail is, thus, allowed.

7. All parties shall act on the basis of the server copy of the order.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)