

30. 13.02.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 34 of 2025

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Raghunathganj** Police Station Case No. **980/2022** dated **09.11.2022** under Sections **20(b)(ii)(c)/29** of the NDPS Act, 1985.

And

In the matter of: - **RAHUL ALI & ANR.**

Ms. Samima Akter Banu

...petitioners.

Mr. Rudradipta Nandy, APP

...for the petitioners.

Ms. Sima Biswas

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioners were arrested on November 9, 2022, for alleged offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Charge-sheet was filed on May 2, 2023, without the FSL report. 180 days from the date of the petitioners' arrest expired on May 9, 2023. On December 9, 2024, the petitioners applied for default bail before the learned Trial Court on the ground of non-availability of the FSL report. Their prayer having been rejected by the learned Trial Court, they are before us by way of this application. The petitioners say that the learned Trial Court ought to have allowed their prayer on the basis of the ratio of the decision in the case of **Idul Mia v. State**

of West Bengal, rendered on October 8, 2024, in **CRM (NDPS) 1359 of 2024**, reported at **2024 SCC OnLine Cal 9109**, which was rendered relying on a previous Division Bench decision in the case of **Rakesh Sha v. The State of West Bengal**, reported at **2023 SCC OnLine Cal 2463**.

2. Learned Additional Public Prosecutor (APP) draws our attention to an order dated August 19, 2024, passed by this Bench in CRM (NDPS) 1135 of 2024, being an application for bail filed by the present petitioner no.2. By the said order we had dismissed the bail application directing the learned Trial Court to expedite the trial and conclude the same positively within a year from the next date fixed for trial.
3. Learned APP says that one-year period has not been expired. Therefore, this application may be rejected.
4. The issue of the petitioners being entitled to default bail by reason of non-availability of chemical report was not before us on August 19, 2024. Indeed, the decision in *Idul Mia (supra)* was rendered on October 8, 2024. Hence, the order dated August 19, 2024, would not stand in our way of passing appropriate orders.
5. In the instant case, we find that charge-sheet was filed without the chemical report. Therefore, going by the ratio of *Idul Mia (supra)* after expiry of 180 days from the date of the petitioners' arrest, they became entitled to statutory bail. They exercised such right by approaching the learned Trial Court in December, 2024. The learned Trial Court rejected

the prayer. We are of the view that the petitioners are entitled to statutory bail since learned APP fairly tells us that the chemical report is still not available.

6. Accordingly, we direct that the petitioners, namely, **1. RAHUL ALI, 2. BISWAJIT DAS** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-ADJ, 5th Court, Berhampore, Murshidabad, subject to condition that the petitioners shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioners, while on bail, shall remain within the territorial jurisdiction of Raghunathganj Police Station (that is jurisdiction of the learned Trial Court) and shall meet the Inspector-in-Charge/Officer-in-Charge of the said Police Station once in a week, until further orders.
7. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

8. The application for bail being CRM (NDPS) 34 of 2025 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)