

61.
13-02-2025
(ct. no.29)
(allowed)
debajyoti

CRM (NDPS) 67 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with Suti Police Station Case No.738 of 2023 dated 02-12-2023 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Md. Sahidul Islam

.... Petitioner.

Mr. Soumya Basu Roy Chowdhuri,
Mr. Anisur Rahaman

... For the Petitioner.

Mrs. Anasuya Sinha, learned APP,
Mr. Arup Sarkar

... For the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he was arrested on December 02, 2023. Charge sheet without the FSL report was filed on May 24, 2024. 180 days from the date of his arrest expired on May 30, 2024. He applied for bail before the learned trial Court on July 23, 2024. His prayer having been rejected, he is before us.

2. Learned State advocate says that the FSL report has been filed along with supplementary charge sheet on September 30, 2024. Charge has been framed, but witness

action has not yet begun. The memo of evidence filed by learned State advocate is taken on record.

3. We, therefore, see that after 180 days from the date of arrest of the petitioner, he became entitled to obtain statutory bail because the charge sheet that was filed was without the chemical report. Before the chemical report was brought on record by way of supplementary charge sheet, the petitioner exercised his right to obtain default bail by approaching the learned trial Court. On the ratio of the decision in the case of ***Idul Mia Vs. State of West Bengal*** reported at ***2024 Supreme Court Cases Online Cal 9109***, the petitioner should have been granted statutory bail.

4. Hence, we have to grant bail to the petitioner. It is elementary that once a right to obtain statutory bail accrues in favour of an accused person and he exercises his right by approaching the court, subsequent filing of the FSL report cannot adversely affect such right.

5. Accordingly, we direct that the petitioner, namely, **Md. Sahidul Islam**, shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of learned Additional District & Sessions Judge, Special Court under NDPS Act, 5th Court, Murshidabad at Berhampore. The petitioner shall appear before the learned trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and/or commit any cognizable offence in any manner whatsoever. The petitioner shall remain within the jurisdiction of Raghunathganj Police Station except for the purpose of attending the court proceedings and shall report to the Officer-in-Charge/Inspector-in-Charge of that police Station once in every week, until further orders. The petitioner shall, through

his learned advocate, inform the learned trial Court, Suti Police Station and Raghunathganj Police Station, his current local address at Raghunathganj where he shall be residing while on bail.

6. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

7. The application for bail is, thus, **allowed**.

8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

9. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)