

24.02.2025

Item no. 1.

Court No.29.

AB

(Allowed)

CRM (NDPS) 152 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Lalgola Police Station Case No.621 of 2023 Dated 28.12.2023 under Section 21(c)/29 of the NDPS Act

And

In the matter of : Piarul Islam @ Patal Petitioner.

Mr. Arnab Chatterjee for the Petitioner.

Ms. Faria Hossain, Id. APP

Ms. Mousumi Sarkar for the State.

Dictated by Apurba Sinha Ray, J.

1. The petitioner was arrested on December 28, 2023. Charge sheet, without the FSL report, was filed on June 22, 2024. 180 days from the date of his arrest expired on June 29, 2024. The petitioner applied for statutory bail on September 12, 2024 before the learned Trial Court. Subsequently, chemical report was filed on November 5, 2024. However, as the learned Counsel for the petitioner did not raise the issue of Idul Mia before the Hon'ble Bench on November 14, 2024, his prayer for bail was rejected by a Coordinate Bench. The petitioner is entitled to the benefit of the decision in the case of **Idul Mia** reported at **2024 SCC Online CAL 9109**. His prayer for bail may be considered right now on the ground of not filing the FSL report within the period prescribed under the law.

2. Learned Counsel for the State opposes the prayer for bail. According to her, the petitioner did not avail the opportunity nor plead the benefit prescribed in *Idul Mia* (supra). However, he has again taken up the issue of *Idul Mia*, which cannot be allowed, at this stage.
3. We have considered the materials on record and CD. It is true that at the relevant point of time, the petitioner did not raise or did not plead that he was entitled to the benefit of the judicial decision of *Idul Mia* (supra), but as per the judicial decision reported in ***Rakesh Kumar Paul Vs State of Assam***, reported in **(2017) 15 SCC 67**, it was the duty of the Court concerned to intimate the petitioner that he is entitled to the statutory bail. Therefore, we think that technicalities should not take place in considering the prayer for bail of the accused person and the Court should pass an appropriate order without being influenced by technicalities. As the materials on record show that the petitioner was entitled to the benefit of *Idul Mia* (supra), we think that non-pleading of such ground cannot inspire us to reject his prayer for bail.
4. In view of the aforesaid, we are inclined to allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **PIARUL ISLAM @ PATAL** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/-each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under

the NDPS Act at Berhampore, Murshidabad, and on further conditions that he shall not leave the jurisdiction of the concerned Police Station and shall report to the Inspector-in-Charge of the concerned Police Station once in a fortnight until further orders.

6. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
7. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
8. The application for bail is, accordingly, allowed.
9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

