

21.03.2025
Item no. 26.
Court No.29.
AB
(Allowed)

CRM (NDPS) 219 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 Goalpokher Police Station Case No.165 of 2023 Dated 08.04.2023 under Section 21C of the NDPS Act

And

In the matter of : Md. Arsad

.....Petitioner.

Mr. Navanil De,
Mr. Srinjan Ghosh for the Petitioner.

Mr. Ranadeb Sengupta,
Ms. Chandreyi Dutta for the State.

Dictated by Arijit Banerjee, J.

1. It appears that 180 days after the petitioner's arrest expired on 4th/5th January, 2025. The petitioner filed an application for default bail on January 13, 2025. It appears that the charge sheet along with the chemical report was filed on the same day before the learned Trial Court after rejection of the petitioner's prayer for bail by the learned Trial Court.
2. The petitioner says that once he had exercised his right to obtain default bail, subsequent filing of charge sheet would not have affected such right. In any event, at the time his default bail prayer was rejected, the charge sheet was not before the learned Trial Court as would appear from the relevant order of the learned Trial Court.
3. Learned State Counsel says that although the right to obtain default bail accrued in favour of the petitioner on

4th/5th January, 2025, he did not avail of such right by filing an application until January 13, 2025, the very day when the charge sheet was filed. Upon the charge sheet being filed, his right to obtain default bail stood extinguished. He further argued that there was no duty on the part of the learned Trial Court to communicate to the petitioner of his right to obtain default bail since the petitioner was represented by learned lawyer.

4. Having considered the rival contentions of the parties, we are of the view that the petitioner is entitled to default bail. Going by the observations of the Hon'ble Supreme Court in the case of ***Rakesh Kumar Paul Vs State of Assam*** reported at (2017) 1 SCC 67 and ***M. Ravindran Vs The Intelligence Officer, Directorate of Revenue Intelligence*** reported at (2021) 2 SCC 485, on January 4th/5th 2025, when the right to obtain default bail accrued in favour of the petitioner, it was the duty of the learned Trial Court as also learned lawyer representing the petitioner to apprise him that he was entitled to obtain default bail if he was willing to furnish bail bond and requisite surety.
5. In any event, the charge sheet was filed, as it appears from the order sheet, after the default bail prayer of the petitioner was rejected by the learned Trial Court. We do not see on what basis, the petitioner's prayer for statutory bail was rejected.
6. In view of the aforesaid, we allow the petitioner's prayer for bail.

7. Accordingly, we direct that the petitioner, namely **MD. ARSAD** 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 Raiganj, Uttar Dinajpur, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
8. 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.
9. 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.
10. The application for bail is, accordingly, allowed.
11. 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.)

