

10.03.2025

Serial no.45

Dd

CRM/7704/2021

In re : An Application for cancellation of Bail under Section 439(2) of the Code of Criminal Procedure, 1973.

-And-

In the matter of : THE STATE OF WEST BENGAL
... ..**Petitioner**

Mr. Rudradipta Nandy, APP
... .. For the Petitioner/State

1. Application for cancellation of bail is at the behest of the State.
2. Learned Additional Public Prosecutor submits that, co-accused after being enlarged on bail, is not attending the trial. Warrant of arrest was issued against the co-accused. So far as the present private opposite parties are concerned, he submits that after being granted bail, such private opposite parties were arrested in NDPS case in Assam.
3. None appears for the private opposite parties.
4. Learned Court while granting order dated March 31, 2021 proceeded on the basis that, unless chemical examination report was filed with the charge sheet, it cannot be said that the seized item was a contraband.
5. In the present case, charge sheet was submitted within 180 days. Thereafter, a supplementary charge sheet was submitted on October 14, 2020. With the supplementary charge sheet, the chemical examination report was submitted.
6. We are unable to agree with the reasoning given by the learned jurisdictional Court. As on date of grant of the

order of bail, there was chemical examination report dated September 15, 2020 on record filed through the supplementary charge sheet which was accepted on October 14, 2020. Therefore on October 14, 2020, when the FSL report was taken on record, application for grant of bail was not there for the jurisdictional Court to arrive at a finding that the accused was entitled to a default bail. In any event, a charge sheet without the FSL report *ipso facto* do not translate into a right to obtain a default bail when the charge sheet is submitted within the stipulated period. Impugned order being perverse is set aside.

7. Order granting bail is cancelled.
8. Private opposite parties will surrender within seven days from date. In default appropriate steps be taken to secure their custody.
9. CRM/7704/2021 is **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)