

03.09.2025
231.
Bd.
Ct.29
(Rejected)

C.R.M. (NDPS) 984 of 2025

In Re:- An application for Bail under section 439 of the Criminal Procedure Code, 1973 corresponding to under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS Case No. 65 of 2023 arising out of Jalangi Police Station Case no. 152 of 2023 dated 16.05.2023 under Sections 21(c)/29 of the NDPS Act, 1985.

And

In the matter of : **Rabiul Mondal @ Monirul Mondal Petitioner.**

Mr. Arnab Chatterjee
Mr. Anisur Rahaman

...for the Petitioner

Mr. Madhusudan Sur
Mr. Nirupan Dhali

...for the State

Prosecution case is that BSF personnel while was on duty noticed suspicious movement of two persons who fled away leaving a bag on the spot. From the said bag 54 bottles of cough syrup containing codeine phosphate was recovered. Prosecution case is that said two persons are the present petitioner and one Hasan Mandal who was arrested earlier, was granted statutory bail on the ground that the charge-sheet was submitted without the chemical examination report, relying upon the judgment of **Idul Mia vs. The State of West Bengal** reported in **2024 SCC Online Cal 9109**. The Trial court has framed charge against the said Hasan Mandal and the case was filed in respect of the present petitioner as he was absconding. Thereafter present petitioner surrendered on 23rd June, 2025 and since then he is in custody and the

charge in respect of the present petitioner has not yet been framed.

Learned counsel appearing on behalf of the petitioner submits that petitioner is in custody for about 70 days and he is almost on the same footing with that of accused Hasan Mandal, who obtained statutory bail for not filing the “Complete charge-sheet” within the statutory period and as such he may be released on bail on any terms and conditions.

Mr. Sur, learned counsel appearing on behalf of the State opposed the bail prayer contending that during investigation it was detected that immediate after the occurrence there were 139 phone calls in between two accused persons. Furthermore, the accused person absconded for a period of two years and the charge in respect of the present petitioner has not yet been framed and if released on bail there is chance of his further abscondence.

Mr. Sur, also disputed that the present petitioner is on the same footing with that of Hasan Mandal, who obtained statutory bail relying upon the judgment of **Idul Mia** (supra). In support of his contention he submitted a Division Bench Judgment of this Court in the case of **Ananta Barman -vs- State of West Bengal** in **CRM (NDPS) 1617 of 2024** wherein it was held that the law laid down in Idul Mia’s case is not a good law as it did not consider the earlier Division Bench judgments of this Court on self-same issue.

Having heard learned counsel appearing on behalf of the petitioner and the State and that the petitioner absconded for

a period of about two years and that there are every reason to believe that the petitioner has involvement with the alleged offence from the material placed before me and for which he has failed to overcome the rigour of section 37 of the NDPS Act, and as such the prayer for bail made by the present petitioner is considered and rejected.

However trial court is directed to make charge hearing in respect of the present petitioner at the earliest.

Both parties are directed to communicate this order to the court below at once.

Accordingly, CRM (NDPS) 984 of 2025 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)