

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (NDPS) 1765 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Kaliachak** Police Station Case No. **220/2024** dated **24.02.2024** under Sections **21(c)/25/27A/29** of the Narcotic Drugs & Psychotropic Substances Act, 1985.

And

In the matter of: - **Hiralal Mandal @ Golab.**

...petitioner.

Mr. Md. Wasim Akram,
Ms. Sabrina Parveen

...for the petitioner.

Mr. Anand Keshri,
Mr. Atanu Ghosh

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he was arrested on February 24, 2024. Charge-sheet was filed on August 20, 2024, i.e., on the 179th day after his arrest, without the FSL report. 180 days after his arrest expired on August 21, 2024. He exercised his right to apply for statutory bail by filing a petition before the learned trial court on September 25, 2024. Such prayer having been rejected, he is before us.
2. Learned State counsel says that the FSL report is still not available.

3. This Bench has held in the case of *Idul Mia* in *CRM (NDPS) 1359 of 2024* that a charge-sheet filed without the FSL report in an NDPS case, is not a charge-sheet within the meaning of the provisions of the Code of Criminal Procedure. Hence, upon expiry of 180 days from the date of arrest of an accused, even if charge-sheet has been filed in the meantime, but without the FSL report, the accused becomes entitled to statutory bail. So long as he exercises such right prior to FSL report being made a part of the charge-sheet, he must be granted default bail.
4. Hence, we are inclined to grant *interim* bail to the petitioner keeping in mind that the Hon'ble Supreme Court has been granting interim bail in all such cases as the issue of whether or not a charge-sheet filed without the FSL report in an NDPS case is sufficient, is pending consideration before the Hon'ble Supreme Court.
5. Accordingly, we direct that the petitioner, namely, **Hiralal Mandal** shall be released on *interim* bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned *Judge, Special 4th Court (NDPS Act), Malda,*. The petitioner shall appear before the trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain

within the jurisdiction of the local police station and shall report to the Officer-in-Charge/Inspector-in-Charge of the said police station twice in a week, until further orders.

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 *interim* bail in accordance with law without further reference to this court.
7. Let this order of interim bail continue till the end of January 2025 or until further orders, whichever is earlier.
8. List this matter on **January 27, 2025**.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)