

26. 13.01.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1821 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 **Sagarpara** Police Station Case No. **14/2024** dated **13.01.2024** under Sections **21(c)/29** of the NDPS Act, 1985.

And

In the matter of: - **Sentu Mondal**

...petitioner.

Mr. Debanshu Ghorai
Mr. Anisur Rahman

...for the petitioner.

Mr. Anand Keshari
Mr. Asraf Mandal

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner was arrested on February 21, 2024, for alleged offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Charge-sheet was filed on June 30, 2024, well within the statutory period of 180 days, without the chemical report. 180 days from the date of the petitioner's arrest expired on August 18, 2024. The petitioner applied for bail before the learned Trial Court on November 7, 2024. The learned Trial Court rejected the prayer. Supplementary charge-sheet was filed by the prosecution on December 30, 2024, bringing on record the chemical report which had been received on December 16, 2024.

2. Learned Advocate for the petitioner relies on our decision in the case of ***Idul Mia v. State of West Bengal***, rendered on October 8, 2024, in ***CRM (NDPS) 1359 of 2024***, reported at ***2024 SCC OnLine Cal 9109***, in support of his submission that a charge-sheet filed in an NDPS case without the chemical report, is not a charge-sheet at all. Therefore, upon expiry of 180 days from the date of the petitioner's arrest, he became entitled to default bail. He prays for bail.
3. Learned State Counsel, while opposing the prayer for bail, says that the petitioner did not specifically pray for default bail. He merely prayed for bail.
4. We are of the view that nomenclature should not make any difference. We are concerned with the substantive rights of the parties. We see that as on the date of the petitioner applying for bail before the learned Trial Court, the chemical report was still not available before the learned Trial Court.
5. Therefore, going by our decision in *Idul Mia (supra)*, we feel constrained to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Sentu Mondal** shall be released on 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 the learned Judge, Special Court, under NDPS Act-cum-Additional District & Sessions Judge, 5th Court, Berhampore, Murshidabad, subject to condition that 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 Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (NDPS) 1821 of 2024 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)