

CRM (NDPS) 1849 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Dalkhola Police Station** Case No. **62 of 2024** dated **04.03.2024** under Sections **21(c)/23(c)/29** of the NDPS Act and Sections 25/27 of the Arms Act.

- A n d -

In the matter of : Md. Saroj Khan

.... Petitioner.

Ms. Jiya Bose,

... For the Petitioner.

Ms. Rituparna Ghosh,

Mr. Atulya Sinha,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner was arrested on March 4, 2024. He says that charge sheet was filed within 180 days but without the FSL report. After expiry of 180 days he has filed the present application exercising his right to obtain statutory bail since an incomplete charge sheet was filed.

2. He relies on the decisions in the cases of Idul Mia in CRM (NDPS) 1359 of 2024 and Rakesh Singh-vs.-State of West Bengal in CRM (NDPS) 3152 of 2021. He says that even though the FSL report has now been filed after the present application was filed, the indefeasible right to obtain statutory bail that accrued in his favour cannot be affected by subsequent filing of the FSL report.

3. Opposing the bail prayer learned State Advocate draws our attention to the material in the case diary. She says that the petitioner is the kingpin of a racket involved in drug peddling. He is a resident of Manipur. If granted bail, there is every likelihood of the petitioner absconding. It was further submitted that the

Investigating Officer made an application to the CFSL for early supply of the FSL report, prior to filing of the charge sheet.

4. We have considered the rival contentions of the parties. The fact remains that the petitioner exercised his right to obtain statutory bail before the FSL report being filed. Subsequent filing of the FSL report cannot negate the petitioner's right to statutory bail which already accrued in his favour.

5. In view of the aforesaid, we feel constrained to enlarge the petitioner on bail.

6. Accordingly, we direct that the petitioner, namely, **Md. Saroj Khan**, shall be released on bail upon furnishing a bond of Rs. 25,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Special Judge under the NDPS Act, Raiganj, Uttar Dinajpur subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not leave the jurisdiction of the Raiganj Police Station and shall meet the officer-in-charge of the said police station once every week until further orders.

7. 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.

8. The application for bail is, accordingly, allowed.

9. 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.)