

16.01.2025
Item no. 28.
Court No.29.
AB
(Allowed)

CRM (NDPS) 1865 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sagarpara Police Station Case No.281 of 2023 Dated 12.09.2023 under Section 21(c)/29 of the NDPS Act read with Section 25(i)(a) of the Arms Act

And

In the matter of : Jiaul Molla

.....Petitioner.

Mr. S. Das Mahapatra,
Md. G. N. Imrohifor the Petitioner.

Mr. Koushik Kundu,
Ms. Pallavi Priyadarshee.....for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner was arrested on September 12, 2023. Charge sheet without the FSL report was filed on March 7, 2024. 180 days from the date of the petitioner's arrest expired on March 10, 2024. The petitioner applied for statutory bail before the learned Trial Court on November 8, 2024, on the ground that a charge sheet without the chemical report is no charge sheet at all. His prayer having been rejected by the learned Trial Court, he is before us.
2. Learned State Counsel tells us that supplementary charge sheet dated December 25, 2024, along with the chemical report has been filed before the learned Trial Court.

3. This case is squarely covered by our decision in the case of **Idul Mia** reported in **2024 SCC On Line CAL 9109**, where we held that if the charge sheet in an NDPS Case is filed without the chemical report even within 180 days of the petitioner's arrest, upon expiry of 180 days, the petitioner becomes entitled to statutory bail. This is because in an NDPS Case, a charge sheet unsupported by chemical report is not a charge sheet within the meaning of the Code of Criminal Procedure, 1973. We see that the petitioner in this case exercised his right to obtain statutory bail prior to the supplementary charge sheet and the FSL report being filed before the learned Trial Court. Therefore, we have to grant him statutory bail.
4. Accordingly, we direct that the petitioner, namely **JIAUL MOLLA** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Berhampore, Murshidabad, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
5. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not

intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

6. 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.
7. The application for bail is, accordingly, allowed.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)