

CRM (NDPS) 1917 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 **Raninagar Police Station** Case No. **188 of 2024** dated **24.03.2024** under Sections **21(c)/29** of the NDPS Act.

- A n d -

In the matter of : Alam Sk @ Shaikh & Anr.

.... Petitioners.

Mr. Tapodip Gupta,

... For the Petitioners.

Mr. Suman De,

Mr. M. Ali Sarkar,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioners say that they were arrested on March 24, 2024. Charge sheet was filed, without the chemical report on September 17, 2024. 180 days expired on September 19, 2024. The FSL report was received by the Investigating Authority on October 28, 2024. The chemical report was filed with supplementary charge sheet before the learned Trial Court on November 12, 2024.

2. In the meantime on November 7, 2024, the petitioners approached the learned Trial Court praying for statutory bail on the ground that the charge sheet filed was incomplete and invalid in the absence of chemical report. The learned Trial Court rejected the bail prayer. Hence, this application.

3. We see that when the petitioners applied for statutory bail before the learned Trial Court, the chemical report was not a part of the learned Trial Court's record. Subsequent filing of the chemical report cannot adversely affect the right of the petitioners to obtain

statutory bail, a right that accrued to them prior to filing of the chemical report along with supplementary charge sheet.

4. Hence, following the ratio enunciated by this Bench in the case of Idul Mia in CRM (NDPS) 1359 of 2024, **reported in 2024 SCC Online Cal 9109**, wherein reference was made to the case of **Rakesh Sha-vs.-State of West Bengal, reported at 2023 SCC Online Cal 2463**, the petitioners' prayer for default bail must be allowed.

5. Accordingly, we direct that the petitioners, namely, **Alam Sk @ Shaikh and Alamgir Sk @ Shaikh**, shall be released on bail upon furnishing a bond of Rs. 25,000/- each, 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, Berhampore, Murshidabad subject to condition that they 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 petitioners while on bail shall not leave the jurisdiction of the concerned Police Station and shall meet the officer-in-charge of the concerned police station once every fortnight until further orders.

6. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' 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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)