

44. 16.01.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1933 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 **Raninagar** Police Station Case No. **263/2024** dated **07.05.2024** under Sections **21(C)/29** of the NDPS Act, 1985.

And

In the matter of: - **Rezbul Sk @ Rejbul Sekh**

...petitioner.

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose

...for the petitioner.

Ms. Amita Gaur, Sr. Govt. Adv.
Ms. Puja Goswami

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner was arrested on May 7, 2024, for alleged offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Charge-sheet was filed on October 16, 2024, without the chemical report. 180 days from the date of the petitioner's arrest expired on November 7, 2024. The petitioner's prayer for default bail was rejected by the learned Trial Court on November 28, 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. Hence this application.

3. Learned State Counsel, while opposing the prayer for bail, says that the supplementary charge-sheet was filed by the prosecution on January 13, 2025, bringing on record the chemical report which had been received by the Investigating Authority on December 20, 2024.
4. We, therefore, see that the petitioner exercised his right to obtain statutory bail upon 180 days from the date of his arrest expiring as chemical report was still not brought on record before the learned Trial Court.
5. Therefore, going by our decision in *Idul Mia (supra)*, the petitioner is entitled to statutory bail. Subsequent filing of chemical report cannot adversely affect such right.
6. Accordingly, we direct that the petitioner, namely, **Rezbul Sk @ Rejbul Sekh** 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 Sessions Judge, 2nd Court at 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) 1933 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.)