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28-01-2025
(ct. no.29)
S. De
(Allowed)

CRM (NDPS) 1979 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Raghunathganj Police Station Case No. 411 of 2023 dated 15.05.2023 under Sections 20(b)(ii)(c)** of the Narcotic Drugs & Psychotropic Substances Act 1985.

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In the matter of : Nasir Hossain @ Bapi & Anr.
.... Petitioners.

Mr. Arnab Chatterjee,
Mr. Anisur Rahaman, ... For the Petitioners.

Ms. Faria Hossain,
Ms. Puspita Saha, ... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioners were arrested on May 15, 2023. The chargesheet without the FSL report was filed on November 10, 2023. 180 days from the date of the petitioners' arrest expired on November 15, 2023. On December 3, 2024, the petitioners applied for statutory bail before the learned Trial Court since the FSL report was still not available on record. Learned Trial Court rejected the prayer. Hence, this application.
2. Learned State advocate tells us that the FSL report was filed along with the supplementary chargesheet on December 22, 2024.
3. Once a right to obtain statutory bail accrued in favour of the petitioners and they exercised such right by approaching the learned Trial Court praying for statutory bail, subsequent filing of the FSL report, cannot adversely affect the right that already accrued in favour of the petitioners. On December 3, 2024,

when the petitioners approached the learned Trial Court, they had the right to obtain statutory bail since the chargesheet that had been filed in November 2023 was an incomplete one.

4. Therefore, going by the ratio of the decision in the case of of **Idul Mia** reported in **2024 SCC OnLine Cal 9109**, we have to grant bail to the petitioners.
5. Accordingly, we direct that the petitioner, namely, **Nasir Hossain @ Bapi** and **Ramis Raja @ Md. Raja** shall be released on bail upon furnishing a bond of Rs. 25,000/ each 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), Berhampore, Murshidabad, subject to the condition that the petitioners shall remain within the jurisdiction of the Berhampore Police Station and shall meet the Officer-in-Charge/Inspector-in-Charge of the Berhampore Police Station, once in a fortnight until further orders.
6. The petitioners 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 in any manner whatsoever.
7. 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.
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.)