

38. 05.02.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1982 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 **Kaliachak** Police Station Case No. **220/2024** dated **24.02.2024** under Sections **21(c)/25/27A/29** of the NDPS Act, 1985.

And

In the matter of: - **CHAITANYA MANDAL @ CHAITANYA MONDAL**

...petitioner.

Mr. Md. Wasim Akram

...for the petitioner.

Ms. Amita Gaur, Sr. Govt. Adv.

Mr. Samarjit Balial

...for the State.

Dictated by Apurba Sinha Ray, J.

1. The petitioner was arrested on March 6, 2024, for alleged offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Charge-sheet was filed on August 19, 2024, without the chemical report. 180 days from the date of the petitioner's arrest expired on September 1, 2024. The petitioner applied for default bail before the learned Trial Court on November 13, 2024, which was rejected by the learned Trial Court.
2. Learned Counsel 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**, which was rendered relying on a previous Division Bench decision in the case of **Rakesh Sha v. The State of West Bengal**, reported at **2023 SCC**

OnLine Cal 2463, 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, in his usual fairness, does not dispute the fact that the petitioner is entitled to the benefit of the decision reported in *Idul Mia (supra)*. However, he says that the supplementary charge-sheet was filed by the prosecution on January 27, 2025, bringing on record the chemical report which had been received by the Investigating Authority on January 19, 2025.
4. We have considered the materials on record. It appears that the charge-sheet has been filed without the FSL report on August 19, 2024. 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. In view of the decision in *Rakesh Sha (supra)*, the said charge-sheet was an incomplete one and further in view of the judicial decision in the case of *Idul Mia (supra)*, we find that the petitioner is entitled to be enlarged on bail on certain conditions. Subsequent filing of chemical report cannot adversely affect such right.
6. Accordingly, we direct that the petitioner, namely, **CHAITANYA MANDAL @ CHAITANYA MONDAL** 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 4th Court under NDPS Act, Malda, 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 and on further condition that the petitioner, while on bail, shall meet the Inspector-in-Charge of Kaliachak Police Station once in a week, until further orders.

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) 1982 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.)