

46. 05.02.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1990 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 **Berhampore** Police Station Case No. **1115/23** dated **09.8.2023** under Sections **20(b)(ii)(c)/29** of the NDPS Act, 1985.

And

In the matter of: - **RAJDEEP BARMAN**

...petitioner.

Mr. Jisan Iqubal Hossain

...for the petitioner.

Mr. Rudradipta Nandy, APP

Mr. Atulya Sinha

...for the State.

Dictated by Apurba Sinha Ray, J.

1. The petitioner was arrested on August 9, 2023, for alleged offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Charge-sheet was filed on January 27, 2024, without the chemical report. 180 days from the date of the petitioner's arrest expired on February 5, 2024. On November 28, 2024, the petitioner applied for default bail before the learned Trial Court on the ground of non-availability of the chemical report. His prayer having been rejected by the learned Trial Court, he is before us by way of this application.
2. Learned Additional Public Prosecutor says that 57 Kgs. of *ganja* was recovered from this petitioner. FSL report has been received by the Investigating Officer on February 4,

2025. Such report is scheduled to be filed along with a supplementary charge-sheet today (05.02.2025). The next schedule fixed for examination of witness is between February 17-19, 2025.

3. We, therefore, see that the charge-sheet in this case was filed without the FSL report. Going by the ratio of the 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***, the charge-sheet was an incomplete charge-sheet and not a charge-sheet within the meaning of Bharatiya Nagarik Suraksha Sanhita, 2023 / Criminal Procedure, Code, 1973. Upon expiry of 180 days from the date of his arrest, the petitioner became entitled to statutory bail going by the aforesaid decision. He exercised such right by approaching the learned Trial Court. His prayer having been rejected, he is before us.
4. Once an accused exercises his right to obtain statutory bail, subsequent filing of complete charge-sheet along with the FSL report would not affect such right.
5. Hence we are of the view that the petitioner is entitled to statutory bail.
6. Accordingly, we direct that the petitioner, namely, **RAJDEEP BARMAN** 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, 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 and on further condition that the petitioner, while on bail, shall remain within the territorial jurisdiction of Berhampore Police Station and shall meet the Inspector-in-Charge/Officer-in-Charge of the said 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) 1990 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.)