

05.02.2025
Item no. 50.
Court No.29.
AB
(Allowed)

CRM (NDPS) 1994 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Samserganj Police Station Case No.136 of 2023 Dated 06.05.2023 under Sections 21(c)/29 of the NDPS Act

And

In the matter of : Akbar Sk.

.....Petitioner.

Mr. S. Basu Roychoudhury
Mr. Anisur Rahamanfor the Petitioner.

Mr. Bibaswan Bhattacharya
Mr. Akash Gangulyfor the State.

Dictated by Arijit Banerjee, J.

1. The petitioner was arrested on May 6, 2023. Charge sheet was submitted on September 30, 2023, without the FSL report. 180 days from the date of the petitioner's arrest expired on November 3, 2023. He applied for statutory bail on January 19, 2024. His prayer was rejected by the learned Trial Court on January 19, 2024. His prayer having been rejected, he has filed this application before us.
2. Opposing the prayer for bail, learned State Advocate tells us that a Coordinate Bench rejected the petitioner's prayer for bail on April 25, 2024. He further tells us that FSL report was filed along with supplementary charge sheet on February 23, 2024.

3. We, therefore, see that when the charge sheet was filed on September 30, 2023, the chemical report did not accompany the charge sheet. Therefore, upon expiry of 180 days from the date of the petitioner's arrest, a right to obtain statutory bail accrued in his favour. That right was exercised by the petitioner by filing application before the learned Trial Court on January 19, 2024. Subsequent filing of the chemical report would not affect such valuable right of the petitioner. This is the ratio of the decision in the case of **Idul Mia** reported in **2024 SCC Online CAL 9109**.
4. In the above facts and circumstances, we have to allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **AKBAR SK.** shall be released on bail upon furnishing a bond of Rs.25,000/-, 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 at Berhampore, Murshidabad, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
6. The petitioner 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

and/or commit any cognizable offence in any manner whatsoever.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's 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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)