

CRM (NDPS) 2020 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 **Baishnabnagar Police Station Case No. 722 of 2023 dated 18.10.2023 under Sections 21(C)/29 & Sections 21(c)/29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Enamul Sk.

.... Petitioner.

Mr. Soumyajit Das Mahapatra,
Mr. Tapodip Gupta,
Mr. Ranabeer Halder,

... For the Petitioner.

Mr. Madhusudan Sur, Ld. APP,
Mr. Ratul Ghosh,

... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner was arrested on October 18, 2023 in connection with an NDPS case. On the 180th day after his arrest i.e. on April 15, 2024, chargesheet was submitted but without the FSL report. A prayer was made for extension of time for investigation. Such prayer was turned down by the learned Trial Court. On April 29, 2024, cognizance was taken by the learned Trial Court. Even on that that, there was no FSL report on record, although on that date, supplementary chargesheet was filed. On June 13, 2024, learned Trial Court rejected the petitioner's prayer for bail. The FSL report was sent directly to the Trial Court on July 8, 2024.
2. Learned advocate for the petitioner says that as on June 13, 2024, the petitioner's bail application should not have been rejected. Since the FSL report was still not there, on the basis of the ratio in the decisions in the cases of **Rakesh Shah** reported

in **2023 SCC OnLine Cal 2463** and **Idul Mia** reported in **2024 SCC OnLine Cal 9109**, learned Trial Court should have granted statutory bail.

3. Learned APP, while opposing the prayer for bail, in his usual fairness, does not dispute that as on the date when the learned Trial Court rejected the petitioner's bail prayer, FSL report was not on record.
4. In view of the aforesaid, we see that this case is squarely covered by the decisions in the cases of **Rakesh Shah (Supra)** and **Idul Mia (Supra)**.
5. Accordingly, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Enamul 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), Malda, subject to the condition that the petitioner shall remain within the jurisdiction of the Baishnabnagar Police Station and shall meet the Officer-in-Charge/Inspector-in-Charge of the Baishnabnagar Police Station, once in a fortnight until further orders.
7. 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 in any manner whatsoever.
8. 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.

9. The application for bail is, accordingly, allowed.

10. 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.)