

**In the Court of the Ld. Addl. Dist. & Sess. Judge, 1<sup>st</sup> Court (NDPS), Cooch Behar**

**NDPS Case No. 53 of 2024**

Present : Sri Mukul Kumar Kundu  
Additional Sessions Judge,  
1<sup>st</sup> Court, (NDPS), Cooch Behar.  
JO Code No. WB00654,

Order No. 9  
dated 05.11.2024

Accused Bakul Mia and Chalim Hossain are produced from J.C. and remanded further to J.C. till 18.11.2024.

Ld. PP in charge and the Ld. Lawyer of the accused are present.

Today is fixed for I.O.'s report, CD and hearing of bail petition filed on 04.11.2024.

I.O. is present with CD.

Now the bail petition dated 04.11.2024 filed on behalf of above two accused persons is taken up for hearing.

Heard both sides.

It is submitted by the Ld. Advocates on behalf of the custody accused Bakul Mia and Chalim Hossain that they have been falsely implicated in this case and are in custody more than 60 days but the Charge-sheet has not yet been submitted by the I.O. and this case leads under non-commercial quantity. For the aforesaid reasons, the right of default/statutory bail has been accrued after expiry of 60 days from the dates of first production of the accused persons i.e on 14.08.2024. So, they may be granted bail in any condition and circumstances.

It is submitted by the Ld. Advocate on behalf of the above accused persons by filing an affidavit that no bail petition pending or rejected before/ by the Hon'ble Court.

Ld. PP- in- Charge does not dispute the submission of the Ld. Advocate on behalf of the custody accused namely Bakul Mia and Chalim Hossain regarding accrued of right of default/statutory bail of the custody accused after expiry of statutory period of 60 days from the date of first production of the accused as the charge-sheet of this case has yet not been submitted by the I.O. and is not submitted within the statutory period of 60 days. Therefore, he submits when charge sheet has not been submitted within statutory period of 60 days necessary order my kindly be passed.

Having regard to the submissions of both sides and on perusal of the case diary and case record, I find that this is a case under section 21(b)/22(b)/27A/29 of The NDPS Act where 96.31 gm suspected

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to be brown sugar were seized which involves quantity lesser than commercial quantity (less than 250 gm) but greater than small quantity (more than 5 gm) but the ingredients of section 27A The NDPS Act is lacking in this case as there is no such materials in the case diary as reported by the Ld. PP in charge as well as I.O. It further appears that the custody accused Bakul Mia and Chalim Hossain were produced before this court on 14.08.2024 and the right of default / statutory bail is already been accrued after expiry of 60 days from the date of production of the accused because till today no charge-sheet has been submitted by the I.O as reported by B.C. II of this Court or that no extension prayer for further investigation is submitted either by I.O. or by prosecution as per law.

I considered the submission of the Ld. Advocate for the accused which is reasonable and justified one. Apart from that no such prayer was made either by the PP-in-charge or the I.O. for further detention of the accused beyond the period of 60 days. In this situation the accused Bakul Mia and Chalim Hossain are entitled to get default/ statutory bail as per law as the Charge-sheet has not been submitted within the statutory period of 60 days from the date of his first production.

Considering all aspects and submission, I am inclined to enlarge the accused Bakul Mia and Chalim Hossain on bail with certain conditions. Hence, the prayer for bail in respect of Bakul Mia and Chalim Hossain is allowed.

Accordingly accused Bakul Mia and Chalim Hossain shall be released on interim bail on furnishing bond of Rs. 10,000/- (ten thousand) with two sureties of Rs. 5,000/- (three thousand) each on condition not to leave the jurisdiction of this state without permission of the court until further order subject to the satisfaction of Ld. CJM., Cooch Behar.

To 18.02.2025 for I.O's report.

CD be returned.

Let a copy of this order be sent to the Ld CJM, Cooch Behar for information & necessary action.

Dictated & Corrected by,

Sd/-

Addl. Sessions Judge, 1<sup>st</sup> Court,  
(NDPS) Cooch Behar.

Sd/-

Addl. Sessions Judge, 1<sup>st</sup> Court,  
(NDPS) Cooch Behar.

