

23.08.2023

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Allowed

C.R.M. (NDPS) No. 1430 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of Barasat Police Station Case No. 235 of 2022 dated 10.04.2022 under Sections 18(C)/25/29 of the N.D.P.S. Act.

And

In Re : Saktar Sekh @ Jaan Ali petitioner

Mr. Biswajit Manna

..... for the petitioner

Mr. Sanjoy Bardhan

Ms. Debjani Dasgupta

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for 170 days. It is also submitted that no narcotics was recovered from his possession. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner had obstructed the police officer who had come for raid. He tore away the papers and absconded. Over this issue another criminal case was registered against him.

3. We have considered the materials on record. No narcotics was recovered from the petitioner but during raid he had obstructed police personnel and had run away. Another case was registered against him. It is further contended that the petitioner is on bail in the said case. Statements of the witnesses do not show clear nexus of the petitioner in the

transaction of narcotics. Under such circumstances, we are of the opinion that petitioner had made out a case to rebut the statutory restrictions under Section 37 of the NDPS Act. However, his prior conduct prompts us to subject him to strict restrictions to ensure his regular attendance in court.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- 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, Barasat, 24 Parganas (North), subject to further condition that while on bail petitioner shall remain within the jurisdiction of Barasat Police Station and shall report to the officer-in-charge of the concerned police station once in a week until further orders. He shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

5. In the event petitioner fails to appear before the trial court 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

