

05.04.2024
Sl. No.4
akd
[ALLOWED]

C. R. M. (NDPS) 603 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.03.2024 in connection with Lalgola Police Station Case No.177 of 2015 dated 21.03.2015 under Section 22 of the NDPS Act. (NDPS Case No.75 of 2015)

And

In Re: ***Rahim Shaikh***

... .. Petitioner

Mr. Arnab Chatterjee
Ms. Poulami Bose

... .. for the petitioner

Mr. Atif Ahmed Siddiqui

... .. for the State

1. It is submitted on behalf of the petitioner that he was taken into custody in another case in 2016 registered at the same police station. He was acquitted from the said case in 2018. Thereafter, he has been arrested in the present case. No narcotics was recovered from his possession. He is in custody for about 130 days. Co-accused from whom narcotics was recovered has been enlarged on bail. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner had absconded for more than nine years.
3. We have considered the materials on record. Present case was registered in 2015. In 2016 petitioner came to be arrested in another case registered at the same police station. He faced trial till 2018 and was acquitted. For reasons best known to the Investigating Agency, he was not shown arrested in the present case. After being acquitted petitioner was finally arrested in November, 2023. Under such circumstances, it cannot be said petitioner had evaded the process of law. On the other hand, it appears that the Investigating

Agency was callous and did not arrest the petitioner in this case when he was in judicial custody in another case registered at the same police station.

4. On merits we note no narcotics was recovered from the possession of the petitioner. Co-accused from whom narcotics was recovered has been enlarged on bail. Accordingly, we are inclined to extend the same privilege to the petitioner also.
5. Therefore, the accused/petitioner, namely **Rahim Shaikh**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional District & Sessions Judge, 2nd Court, Berhampore, Murshidabad subject to condition that the said petitioner 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 or commit similar offences in future.
6. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)