

23.04.2024.
19.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 705 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.75 of 2015 arising out of Lalgola P.S. Case No.177 of 2015 dated 21.03.2015 under Section 22 of the NDPS Act.

In the matter of : **Ariful Islam @ Arif Sk.**

.... Petitioner.

Md. Bani Israil.

...for the Petitioner.

Mr. Tanmoy Kr. Ghosh,
Mr. Koustav Banerjee.

...for the State.

1. Petitioner is in custody for 160 days. He contends no narcotics was recovered from his possession. Co-accused viz., Rahim Shaikh has been enlarged on bail.
2. Learned Advocate for the State opposes the bail prayer. He submits petitioner does not stand on the same footing with co-accused viz., Rahim Shaikh who was in custody in another case.
3. In response, petitioner submits he was also in custody in another case in 2020 but was not shown arrested in the said case.
4. We have considered the materials on record. No narcotics was recovered from petitioner. In 2020, he was arrested in connection with another case at the same police station. However, he was not shown arrested in this case. This shows indifference on the part of the investigating agency to apprehend the petitioner in this case.

5. Under such circumstances, we are of the opinion petitioner is entitled to bail.

6. Accordingly, the petitioner viz., **Ariful Islam @ Arif Sk** 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 the NDPS Act, Berhampore, Murshidabad subject to condition that 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 or commit similar offences in future.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)