

19.06.2024  
Item no. 23.  
Court No.28.  
as  
(Allowed)

**CRM (NDPS) 936 of 2024**

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.02 of 2013 arising out of Gangarampur Police Station Case No.479 of 2013 dated 03.09.2013 under Sections 22/23/27(A) of the NDPS Act.

And

**In the matter of : Abdus Sadek Sarkar.**

**.....Petitioner.**

Mr. Milon Mukherjee, Sr. Adv.  
Mr. Sabir Ahmed  
Mr. Biswajit Manna .....for the Petitioner.

Mr. Binay Panda  
Ms. Manasi Roy .....for the State.

The alleged incident is of 2013. The petitioner challenged the institution of the criminal case by way of a criminal revisional application before a learned Judge of this Court being CRR 239 of 2016. In such application there was an order of stay. The application was dismissed ultimately on June 17, 2022.

Subsequently, the petitioner was arrested in connection with another police case of 2022. The petitioner applied for bail. Bail was granted by a Co-ordinate Bench by an order dated May 7, 2024 passed in CRM (NDPS) 377 of 2024.

The petitioner says that when, in compliance with the conditions of bail, he attended the learned Trial court, he was taken into custody on May 17, 2024. He prays for bail. He says that there is no chance of his absconsion. He is an established businessman.

Learned Advocate for the State says that although charge sheet was submitted way back in 2014, the petitioner could not be interrogated as he was absconding. It may become necessary to conduct further investigation in the matter.

The State will be at liberty to conduct further investigation and if it decides to do so the petitioner shall render full co-operation to the investigating officer. However, in view of the fact that the charge was filed in 2014 after completion of investigation and the seizure list does not show there was recovery from the petitioner and he has been implicated on the basis of statements made by co-accused persons, we are of the view that the petitioner has been able to overcome the restrictions under Section 37 of the NDPS Act.

Accordingly, we direct that the petitioner, namely **Abdus Sadek Sarkar** shall be released on bail upon furnishing a bond of Rs.25,000/-, 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-cum-Additional District Judge, 3<sup>rd</sup> Court, Balurghat, Dakshin Dinajpur subject to condition that the present petitioner shall appear before the learned Trial court on each date of substantive hearing subject

to the provisions of Section 317 of the Code of Criminal Procedure, 1973. The petitioner shall remain within the jurisdiction of the Trial court till conclusion of trial unless such conditions have been relaxed by the learned Trial court.

The petitioner shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned Trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being CRM (NDPS) 936 is accordingly disposed of.

Criminal Section is directed to supply urgent Photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

**(Arijit Banerjee, J.)**

**(Gaurang Kanth, J.)**

