

03.05.2024
Court No.01
Item No. 24
Allowed

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

ar

CRM (DB) 166 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Mekhliganj Police Station Case No. 421 of 2022 dated 22.12.2022 under Sections 379/411 of the Indian Penal Code.

And

In Re: **Ershad Md**

Petitioner

Mr. Partha Pratim Sarkar
Mr. Sudip Guha
Mr. Sandip Guha Roy
Mr. Ananda Paul

For the Petitioner

Mr. Abhijit Sarkar
Mr. Sukumar Adhikary

For the State

1. Learned counsel for the petitioner submits that the petitioner is innocent and he stands in the same footing as that of Ramjan Ali @ Bulet @ Bullet, who was granted bail on 17th October, 2023 in CRM (DB) 438 of 2023.
2. Learned counsel for the State while opposing the prayer for bail, however, candidly submits that the present accused petitioner stands on the same footing as Ramjan Ali. It is urged that the present petitioner is notorious criminal and in the event he is released, the trial may hamper.
3. We have read the judgment of Justice Bagchi dated 17th October, 2023 passed in CRM(DB) 438 of 2023, being the third Judge where the matter was referred to due to difference of opinion of two Hon'ble Judges of the Court. It appears that His Lordship consideration of the

same case diary, in which the name of the present petitioner also featured, was of the view that it was a fit case for granting bail having regard to the nature of the offence and the progress made in the trial and the period of detention.

4. In view of the fact that there is no difference on facts on parity of reasoning, we allow this application for bail on the same grounds.
5. In the facts and circumstances of the present case, the present accused petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, one of whom must be local, to the satisfaction of A.C.J.M, Mekhliganj, Cooch Behar subject to condition that the 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 and on further condition that the petitioner while on bail shall not leave the municipal limits of Mekhliganj town except for the purpose of attending court proceeding and shall provide address where she shall presently reside to the investigating agency as well as the Court below and report to the Officer-in-Charge, Mekhliganj Police Station once in a week until further orders.
6. In the event the 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.
7. The application for bail is, thus, disposed of.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)