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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

CRR 236 of 2024

Md. Narul Sheikh @ Sk @ Sekh
Versus
The State of West Bengal & Anr.

Mr. Arnab Saha. ... for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP.
Mr. Ujjwal Luksom. ... for the State.

- 1.This revisional application has been filed challenging the order dated 12.06.2024 passed in Criminal Appeal No. 16 of 2024 wherein learned Sessions Judge, Alipurduar refused the prayer for bail to the petitioner/convict who was sentenced to suffer rigorous imprisonment for three years along with other convict as well and at the same time they were also sentenced to pay fine of Rs.1,00,000/- each, in default, to suffer further imprisonment for six months each.
2. Learned Sessions judge refused the prayer for suspension of sentence in the appeal relying on an order dated 21.05.2024, wherein learned Judge observed that the petitioner/convict could not avail opportunity of bail within the meaning of Section 389(3) of the Code of Criminal Procedure as he was in custody all along, whereas learned Judge granted the prayer for suspension of sentence in respect of other accused namely Nazrul Islam.
3. Learned counsel appearing on behalf of the petitioner has

submitted that both the convicts are on the same footing and same punishment was imposed upon both the convicts but the bail application of the petitioner was refused on the ground of his custody during trial.

4. Besides, learned counsel appearing on behalf of the petitioner has submitted that learned Judge could have invoked within the meaning of Section 389(1) of the Code of Criminal Procedure in terms of the quantum of sentence imposed upon both the convicts.
5. Learned counsel appearing on behalf of the State has submitted that no specific ground is shown in the order impugned for refusal of the prayer made on behalf of the petitioner. That apart learned counsel on behalf of the State left the matter to the discretion of this Court.
6. On perusal of the entire documents of this record, particularly the copy of the judgment passed by the learned Judicial Magistrate, 3rd Court, Alipurduar, it is found that both the convicts were tried for the offence under Section 9/27/26/39/49B of Wild Life (Protection) Act and they were found guilty of committing offence punishable under First Proviso to Sub-Section (1) of Section 51 of the Wild Life (Protection Act) for committing offence under Sections 9/39/49B of the Wild Life (Protection Act).
7. On perusal of the judgment, I find that both the convicts including the petitioner herein were sentenced to suffer three years rigorous imprisonment along with fine of Rs.1,00,000/-

each with two sureties. It is also seen from the record that other convict was enlarged on bail.

8. Given facts and circumstances, the petitioner/Md. Narul Sheikh @ Sk @ Sekh be enlarged on bail subject to furnishing bond of Rs.1,50,000/-(One lakh fifty thousand) with two registered sureties of Rs.75,000/- (Seventy five thousand) each to the satisfaction of the learned Chief Judicial Magistrate, Alipurduar.
9. In the aforesaid view of the matter, the order impugned stands set aside.
10. With this observation, the revisional application being **CRR 236 of 2024** stands allowed.
11. All parties shall act on the server copies of this order duly downloaded from the officer website of this Court.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Bibhas Ranjan De, J.)

