

HIGH COURT OF SIKKIM, GANGTOK
(Criminal Jurisdiction)

Bail Appin No. 01 of 2015

APPLICANT

Shri Ajim Sheikh,
S/o Md. Rashid Sheikh,
Aged about 27 years,
R/o Muryalipara, Sujapur,
P.S. Kaliachak, Dist. Malda, West Bengal.

Presently lodged in
State Jail, Rongneck,
Under Judicial Custody.

Versus

RESPONDENT

State of Sikkim.

Bail Petition under Section 439 of the Code of
Criminal Procedure, 1973

Appearance:

Mr. Sudesh Joshi, Advocate for the Applicant.

Mr. J.B. Pradhan, Public Prosecutor with Mr. S.K. Chettri,
Asstt. Public Prosecutor for the State.

ORDER (Oral)
(10.02.2015)

Following Order of the Court was dictated on Board by
SUNIL KUMAR SINHA, Actg. CJ.

1. This is an application filed under Section 439 of the Code
of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of regular
bail to the Applicant, who has been arrested in connection with FIR No.

30(07)10 of Police Station Singtam, East District, registered under Sections 489B and 489C of IPC.

2. The applicant was arrested in the said case on 08.07.2010 and was released on bail on 12.10.2010. The bail was granted to him by exercising jurisdiction under Section 167(2) of the Cr.P.C. on account of failure of the prosecution to file the charge-sheet within the stipulated time. Later on, the charge-sheet was filed on 21.06.2012, but the applicant could not be produced because notice was not served upon him. The Court then issued Non Bailable Warrant and the applicant appeared before the Chief Judicial Magistrate (East) on 28.06.2013, but he did not appear before the committal Court and ultimately Non Bailable Warrant was issued against him. The applicant thereafter surrendered on 17.10.2014 and since then he is in jail.

3. Mr. Sudesh Joshi, learned counsel for the applicant argues that on 28.06.2013, when the applicant surrendered before the Chief Judicial Magistrate (Committal Court), he was directed to appear before the Sessions Court on the same day, but the applicant could not understand it and he without causing his appearance before the Sessions Court, went back, however, when he came to know about the order, he again surrendered on 17.10.2014. He also argues that almost in similar situation, the co-accused has been released on bail vide order dated 01.04.2014 passed by this Court.

4. On the other hand, Mr. J.B. Pradhan, learned Public Prosecutor appearing on behalf of the State, opposes this argument.

However, he does not dispute the factual aspect that the applicant is in custody since 17.10.2014.

5. Considering the above facts and circumstances of the case, particularly considering the period of pre-trial detention of the applicant and that in similar situation the co-accused has been enlarged on bail, I am of the opinion that present is a fit case in which the applicant should be enlarged on bail.

6. Accordingly, the application is allowed and it is directed that the applicant shall be enlarged on bail on his furnishing a personal bond of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the trial Court, for his appearance before the said Court on each date of hearing till disposal of the trial. It is directed that the sureties should be local sureties of East District.

7. Certified copy as per Rules.


(Sunil Kumar Sinha)
Acting Chief Justice
10.02.2015

Approved for Reporting : No
Internet : Yes

pan/jh