

C. Case No.02/2023
CNR NO : WBBB01-000400-2023
J.O. CODE : WB 00702

Order No.15

04.08.2023

This day is fixed for production of accused persons, namely Asikul Islam, Sk Tamijuddin, Gurbindar Singh, Pravat Konai, Sarukh Ansari, Chandan Deep Singh and I.O.'s report. All the 6 accused persons are produced from J.C. before this Court as ordered. They be remanded to JC till 21.09.2023.

Three separate bail petitions have been filed by the Ld. Advocates appearing on behalf of Asikul Islam, Sarukh Ansari Pravat Konai, Chandan Deep Singh and Gurbindar Singh.

Perused the bail petitions filed on behalf of above named accused persons along with the record.

Heard Ld. Advocates for the accused persons and Ld. P.P. in-charge.

Ld. P.P. in-charge submits that the charge sheet has already been filed in this case by the I.O. On perusal of the record, it reveals that the charge sheet has been submitted by the I.O. of this case, namely, Ashok Sinha Mahapatra vide C.S. No. 166/2023 dated 22.07.2023 u/s 20(b)(ii) ©/25/29 of NDPS Act.

So far as the bail prayers are concerned Ld. Advocates for appearing on behalf of the accused persons made their two fold submissions before this Court. It is the submission of the Ld. Advocates that the charge sheet has been submitted against the accused persons namely Pravat Konai and Sk Tamijuddin although nothing had been recovered from their possession except the mobile phones. Ld. Advocates further submitted that there was no call details in respect of the above named accused persons with the principle accused persons to prove the prima facie nexus in between themselves wherefrom the contraband substance (ganja) had been seized as alleged by the prosecution. Ld. Advocates vehemently submitted that the said accused persons had been arrested purely on the basis of suspicion.

Ld. Advocates submitted on behalf of other accused persons that they were no way connected with the alleged offence and a fake case had been planted against them without any justifiable reason, for which they have been detained behind the bar for more than 6 months. Ld. Advocates again submitted that when the charge sheet

had been submitted against the accused persons there is no possibility in tampering with the prosecution evidence and accordingly prayed for releasing the accused persons on bail by imposing any condition upon them. Ld. Advocate very fairly submitted that if the bail prayer of the accused persons will be refused, a shortest possible date may be fixed for consideration of charge.

Ld. P.P. in-charge raised strong objection against the instant bail prayers and strenuously submitted that after thorough investigation, the Investigating Officer (I.O.) has filed the charge sheet against all the accused persons. He again submitted that all the accused persons have / had nexus in between themselves in commission of the said heinous offence. Ld. P.P. in-charge further submitted that when the charge sheet had been submitted by the I.O. of this case in respect of a serious crime committed by the accused persons for possessing the huge quantity of contraband substance (ganja) and that had been recovered/ seized by the police, at this crucial stage if the accused persons be released on bail the prosecution case will be seriously prejudiced and accordingly prayed for its rejection.

Having heard the rival submissions of the Ld. P.P. in-charge and the Ld. Defence counsels, it reveals that the accused persons are languishing custody for a prolonged period i.e. more than 6 months. On perusal of the record, it reveals that the instant case has been culminated in filling charge sheet against the accused persons above named u/s 20(b)(ii) ©/25/29 of NDPS Act. We know that mere completion of investigation in respect of the serious crime as alleged by the prosecution is no ground to release the accused persons on bail where they have been apprehended with an allegation for their involvement of peddling a prohibited substance (ganja). In this case the contraband substance (ganja) weighing more than 6 quintals which had been recovered/ seized from the possession of the accused persons which would fall within commercial quantity. There is also an embargo u/s 37 of NDPS Act over granting bail to the accused persons. Not only that if such act is considered in a lenient way it would affect the society at large. We know that filing of the charge sheet established a prima facie case against the accused persons above named. More so, the charge has yet to be framed against the accused persons and if the accused persons be released at this crucial stage the prosecution case will be prejudiced.

In view of the above circumstances and considering the back drop of this case and the reason mentioned herein above, I am of the opinion that the instant bail prayers deserve no merit to get success at this stage.

Hence, the bail prayers stand rejected.

To 21.09.2023 for production of all 6 accused persons and consideration of charge.

Dictated & corrected

Judge, Special Court under
NDPS Act, 1st Court, Suri, Birbhum.