

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

Order No.06

24.02.2023

This day is fixed for production of accused persons, namely Asikul Islam, Sk Tamijuddin, Gurbindar Singh, Pravat Koai , Sarukh Ansari and Chandan Deep Singh.

All 6 accused persons have been produced from J.C. as ordered.

They be remanded to JC till 10.03.2023.

One bail petition has been filed by the Ld. Advocate on behalf of accused Asikul Islam with fresh vokalatnama. Let the same be kept with the record.

Another bail petition has been filed by the Ld. Advocate on behalf of accused Sk Tamijuddin with fresh vokalatnama. Let the same be kept with the record.

Bail petitions of other accused persons, namely, Pravat Koai , Sarukh Ansari wherein they pray for enlarging the above noted accused persons on bail on the ground stated therein.

The record is taken up for hearing of the bail application.

Heard Ld. Advocate for the accused petitioners and Ld. P.P. in-charge.

Perused the bail applications along with CD and other materials on record.

Ld. advocates for the accused persons who have submitted separately that the above mentioned accused persons are in custody for a considerable period i.e. since 27.01.2023 and they are totally innocent and have been falsely implicated in this case. It would further submitted by the Ld. Advocates on behalf of accused Pravat Koai , Sarukh Ansari that nothing is recovered from their possession except mobile phones. Ld. Advocates again has submitted that accused persons have been detained in custody without any justifiable reason and the investigation has been fairly proceeded till this day and finally prays for releasing them on bail by imposing any condition upon them.

On the other hand, Ld. P.P. in-charge vehemently opposed bail prayer of the accused persons and has submitted that huge quantity of ganja i.e. more than 6 quintals has been recovered from the possession of the accused persons and above noted accused persons hatched a criminal conspiracy and abetted the alleged offence. He has further submitted that contraband substance falls in the category of commercial quantity and finally has submitted that this is an early stage of investigation and if accused persons be released on bail,

prosecution case will be prejudiced and accordingly he prayed for rejection of instant bail prayer.

Having heard the rival submissions of the Ld. Advocates of both sides and on perusal of record (Memo of evidence) as placed before me, at this stage it reveals that this Court is pleased to pass an order vide order no. 5 dated 10.02.2023 by rejecting the bail prayers of the accused persons with the following observations.

“Having heard the rival submissions of the Ld. Advocates of both sides and on perusal of record (Memo of evidence) as placed before me, at this stage it reveals that the offence as alleged against the accused persons is grave in nature. The quantity of ganja seized falls in the category of commercial quantity.

In view of the Ariyan’s case the Hon’ble Apex Court held that mere absence of contraband possession is insufficient to grant bail to the accused. Hence, the argument advanced by the Ld. Advocates that no recovery of contraband substance from the possession of the accused persons entitled to get bail is of no essence.

Not only that the twin conditions which requires under section 37 of NDPS Act have not been satisfied by the accused/ petitioners. Further the accused persons being in J.C. since 27.01.2023 cannot be the ground to enlarge them on bail.

In view of the above, I am of the considered view that it is not a fit case to grant bail to the accused petitioners as prayed for.

Hence, the bail petition is devoid of merits and liable to be rejected”.

In view of the above circumstances and on perusal of the record it appears to me that the investigation is on and it should be allowed to proceed smoothly. Having regard to the huge quantity of contraband articles as mentioned above involved in this case and also the facts that this is the investigation not the trial. So, I am of the opinion that the accused persons do not deserve to get any latitude of liberty at this stage.

Hence, the instant bail petition stands rejected.

Returned C.D.

To 10.03.2023 for production of the accused persons and I.O.’s report.

Call for C.D. on the date fixed.

Dictated & corrected

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