

Order No. 07 dt. 05.4.24

Today is fixed for production and I.O.'s report.

Accused persons in custody namely Rejjak Ali, Arshad Ali, Baijur Rahaman and Anichur Rahaman are produced from J.C. today. I.O.'s report is not found filed. Let the accused persons be now remanded back to J.C. till the next date.

Two bail petitions are also filed today on behalf of the respective accused persons which is now taken up for hearing and order in presence of both the sides.

Ld. Advocate on behalf of the accused persons Anichur Rahaman and Baijur Rahaman moved the bail petition and submitted that the petitioners have been falsely implicated in this case and that they had not brought the contraband item in their vehicle but accused Rejjak Ali and Arshad Ali had boarded their vehicle with bags after hiring their vehicle which bags happened to contain the said contraband which was not within their knowledge when they permitted the two accused persons to hire their vehicle.

Ld Advocate for the accused persons Arshad Ali and Rejjak Ali submitted that the accused petitioners had not boarded the said vehicle with the bags containing the alleged contraband but that the said bags were already in the said vehicle when they boarded the said vehicle after hiring it. The respective Ld Advocates prayed that their accused petitioners may be enlarged on bail under any terms and conditions.

Ld. P.P. in-charge for the State raised objection against the prayer for bail of accused Arshad Ali and Arshad Ali but did not raise objection against the bail prayer of accused Baijur Rahaman and Anichur Rahaman

I have perused the record and materials in the C.D carefully. It appears from the perusal of the C.D. that the accused Arshad Ali and Rejjak Ali boarded the seized vehicle with their bags which was subsequently searched by the police and contraband recovered from therein when the accused Baijur Rahaman and Anichur Rahaman were proceeding for the airport by their seized vehicle to receive some passengers. As such, the CD fails to cogently show the complicity of accused Baijur Rahaman and Anichur Rahaman in the possession of the seized drug. On query, Ld. P.P. in-Charge stated that there are no materials in the C.D. from which it could be gauged that the accused persons Baijur Rahaman and Anichur Rahaman are habitual offender of similar offences or that they have criminal antecedents. Considering the above facts and circumstances, this Court is of the opinion that the accused petitioners

Baijur Rahaman and Anichur Rahaman are able to rebut the statutory limitations on grant of bail given in sec. 37(1)(b)(ii) of The NDPS Act and hence their bail petition is hereby considered and allowed on this day. The bail prayer of accused Arshad Ali and Rejjak Ali is however considered nad dismissed as there is no material to suggest that these accused persons are not guilty and that they have thereby managed to rebut the statutory limitation given in sec. 37 of The Act. Accused **Baijur Rahaman and Anichur Rahaman** may be enlarged on bail on each furnishing bond of Rs. 20,000/- (twenty thousand) with two sureties of Rs. 10000/- (ten thousand) each, **one of whom must be a local surety, who shall file registered conveyance deed of immovable property standing in his/her name of the required value.** The registered surety shall be to the satisfaction of Ld. CJM., Cooch Behar. The bail is given with condition that the petitioners shall not try to intimidate/influence any of the witnesses of this case or tamper with the evidence in any manner and shall not commit offence on bail. Further, the accused persons must be present on each and every date fixed in this case and shall meet the I.O. of this case once a week until further order for giving his cooperation to the investigation of this case.

To 18.4.24 for production/appearance, if on bail and I.O.'s report.

Dictated & corrected by

Addl. Sessions Judge, 1st Court,
Cooch Behar (NDPS)

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