

Order No. 20 dt. 16.10.23

Today is fixed for production and further bail hearing.

Accused Ram Jiban Sarkar is present before court today and files hazira. The accused persons in detention namely Biswajit Sarkar and Nikhil Sarkar are produced from J.C. today. Ld. Advocates of both sides are present. Now, the case is taken up for further hearing of the bail petition filed on behalf of the accused persons in detention on 27.9.23.

Ld. Advocate for the accused persons submitted that the accused persons are innocent and have been falsely implicated in this case. He submitted that there is no compliance to the provisions of sec. 42 of The NDPS Act and sec. 41B of the Cr.P.C. and that the accused persons have been arrested after a gap of about 13 hours from the completion of the seizure of the contraband and that too from a different locale than the house where the contraband was seized. He also submitted that the present accused petitioners stand on the same footing with one co-accused person who has been granted bail in this case. He prayed for bail for the accused petitioner under any terms and conditions.

Ld. P.P. In-charge raises objection to the said prayer for bail.

Heard both the sides. Perused the petition and the record. Considered.

It appears from the record that there is no compliance to the provisions of sec. 42 of The NDPS Act and sec. 41B of the Cr.P.C. and that the accused persons have been arrested after a gap of about 13 hours from the completion of the seizure of the contraband and that too from a different locale than the house where the contraband was seized. The present accused petitioners stand on the same footing with one co-accused person who has been granted bail in this case and the investigation of this case has already ended.

Considering the above facts and circumstances, it is apparent that the accused persons have been able to rebut the statutory restriction given in sec. 37 NDPS Act and thus the bail petition of the accused petitioners is hereby considered and allowed on this day. Accused persons namely Biswajit Sarkar and Nikhil Sarkar may be enlarged on **interim bail** on furnishing bond of Rs. 20,000/- (twenty thousand) with two sureties of Rs. 10000/-

(two thousand five hundred) each, **out of which one must be a local surety, who shall submit registered deed of any land property standing in his/her name of the required value.** The registered surety shall be subject to the satisfaction of Ld. CJM., Cooch Behar and the instant bail is given with **condition that the petitioner shall attend this court on each and every date fixed in this case and shall not try to intimidate the witnesses or tamper with the evidence and shall not commit**

offence on bail. Let the next date be fixed for consideration of charge. Accused persons who be on court bail must remain present on the next date.

To date (04.01.24) for production/appearance, if on bail and consideration of charge.

Dictated & Corrected by,

Sd/-

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

Sd/-

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