

Order No. 30 dt. 24.7.23

Today is fixed for production and evidence.

Accused person in custody namely Chandan Kairi is produced from J.C. today. Two witnesses namely Home Guard Sushanta Barman and Civic Volunteer Motiul Haque are present and prosecution files their witness hazira. They are examined today in this case as PW8 and PW9 respectively, cross examined in full and accordingly discharged. The accused person in custody is remanded back to J.C. till the next date. Accused person has filed a bail petition today which is now taken up for hearing and order.

Ld. Advocate for the accused person submits that the accused person is innocent and has been falsely implicated in this case. He drew the attention to the evidence of the witnesses recorded in this case and 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 the instant accused petitioner is in custody for more than two months and that the investigation has already ended. The materials in the evidence recorded thus so far reveal that save and except two witnesses, none of them have identified the accused person to be the same person from whom contraband item was recovered and seized at the P.O. on the relevant date and time. The chemical examination report of the sample of the contraband item which was sent to the laboratory for its chemical analysis has not been brought into the evidence on record.

Considering the above facts and circumstances, it is apparent that the accused person has been able to rebut the statutory restriction given in sec. 37 NDPS Act and thus the bail petition of the accused petitioner is hereby considered and allowed on this day. Accused person namely Chandan Kairi may be enlarged on bail on furnishing bond of Rs. 5,000/- (five thousand) with two sureties of Rs. 2500/- (two thousand five hundred) each, subject to the satisfaction of Ld. CJM., Cooch Behar **on condition that the petitioner shall attend this court on each and every date fixed in this case and shall not try to intimidate the remaining witnesses or tamper with the evidence and shall not commit offence on bail.** Ld. Advocate for the State has filed a petition today u/s 311 Cr.P.C. which is now moved. He submitted that the I.O. of this case has inadvertently left out an important witness i.e. Nirmal Roy in this case from the charge sheet submitted by him. He prayed for summoning the witness

who was the then I.C. of Kotwali P.S. as his evidence is vital to prove the prosecution case, since he had acted as a Gazetted Officer during the search seizure proceedings in this case.

Heard. Perused the petition and materials in the record. Considered.

On perusal of the seizure list and charge sheet found in the record, it is apparent that the above person has acted as Gazetted Officer in the alleged search seizure, who has not been made witness in this case. For proper and effective adjudication of this case, the evidence of this witness is necessary and hence the said prayer of the prosecution is allowed u/s 311 Cr.P.C.

The following evidence schedule is now drawn up for recording the evidence of witnesses in this case.

<u>Date</u>	<u>C.S.W.</u>	
01.12.23		5 & Inspector Nirmal Roy
02.12.23		12

Issue summons accordingly.

To 01.12.23 for production, appearance, if on bail and evidence.

Dictated & Corrected by,

Sd/-

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

Sd/-

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Cooch Behar, (NDPS).