

Order No. 05 dt. 13.06.24

Record is put up today as one accused person namely Nabar Hossain is brought under arrest today from Pundibari P.S. and forwarding report in four pages dt. 13.6.24, medical check-up dt. 13.06.24 and Arrest-Cum-Inspection Memo dt. 13.6.24 with respect to this accused person is filed before this court. Perused the received documents. Let the said documents be kept with the instant record. The accused person is now taken into custody.

One bail petition along with Vokatnama is filed on behalf of this accused person today which petition is now taken up for hearing and order.

Ld. Advocate for the said accused person then moved the bail petition and submitted that the accused person is innocent and that he has been falsely implicated in this case. He also submitted that the ground of arrest was not communicated to the accused person in writing at the time of his arrest by the arresting officer and that compliance u/s 42 of The NDPS Act was not done in this case. He prayed for bail of the accused person which prayer is opposed by the State.

Heard both the sides. Perused the materials in the bail petition and the instant record.

It appears from the materials in the CD that the investigation into this case is at an early stage. The record bears testimony to the fact that the accused petitioner is prima facie found to be involved in transporting commercial quantity of Ganja in his vehicle which has been seized in this case from the vehicle from which the photocopy of his driving licence was also recovered. It appears from the CD that the ground of arrest was not communicated to the arrestee and compliance u/s 42 of the Act was not done but these are not enough to hold at this stage of the investigation that the accused person is not guilty of the offences levelled against him as per sec. 37 of the Act.

Considering the above facts and circumstances, this court is of the view that the accused may be not released on bail at this stage. Hence, the bail petition of the accused petitioner is now considered and dismissed. One PC prayer is also found filed today which is also moved by the prosecution who prayed for 07 days custody of the accused person. On perusal of the CD, it is found that 05 days PC is justified at this stage and hence the same is allowed. I.O. is directed to follow the guidelines given in D.K. Basu judgement in this regard. The accused person Nabar Hossain be handed over to the I.O. on proper receipt. BC II to comply.

To 18.6.2024 for production and I.O.'s report.

Dictated & Corrected by

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

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