

In the Court of Special Judge (under NDPS ACT)-cum-Additional District & Sessions Judge 3rd Court, Dakshin Dinajpur at Balurghat.

Special Case No. 99 of 2022 (CIS No. 182/22)

CNR Number : WBDD01-002853-2022 (JO Code: WB00830)

Present: Shri. Santosh Kumar Pathak, in-charge of Special Judge (under NDPS ACT)-cum-Additional District & Sessions Judge 3rd Court, Dakshin Dinajpur at Balurghat.

Order No. 34

12-12-2023

The record is put up today by petition.

A prayer has been made by the accused to grant bail to him since he has been in the custody for a long time and he has not made by bail application before the Hon'ble High Court in this case.

Ld. Advocate appearing for the accused person submitted that the accused person has been implicated in this case on false and fabricated ground and the allegation against him is allegedly U/S. 29 of the NDPS Act 1985. However Ld. Advocate for the accused persons further submitted that having under section 29 of the NDPS Act as alleged against the accused persons cannot be made out since the principal offence which is under section 21(c) of the NDPS Act has not been made out. Ld. Advocate for the accused persons further submitted that nothing has been recovered from him and the only allegation against the accused persons is that he made contact with the principal accused in this case. It also also submitted that for no reason he has been kept in custody. Ld. Advocate for the accused persons also submitted that the charge sheet has been submitted in this case.

Ld. P.P. submitted that he has objection with regard to the prayer of bail.

Having considered the submission made by the Ld. Advocate for the accused and the Ld. P.P. and also having regard to the material in the case record, it appears that in considering the bail application even under section 29 of the NDPS Act, the requirement of section 37 of the NDPS Act have to be born in mind and regarding the findings under section 37 of the Act is the sine qua non for granting bail under the Act. Tasting the material in the record on the touchstone of the provision of section 37 of the NDPS Act, it appears that the prima facie case has been made out against the accused person under section 29 of the NDPS Act and therefore granting of bail at this stage would not be proper. Hence, prayer for bail is considered and rejected.

Todate (13.02.2024) for Production, Appearance and ER of WA.

Dict & Corr by

**Special Judge (under NDPS ACT)-
cum-ADJ, 3rd Court,
Balurghat,Dakshin Dinajpur.**

**Special Judge (under NDPS ACT)-
cum-ADJ, 3rd Court,
Balurghat,Dakshin Dinajpur.**

Special Case No: 23 of 2022
CIS Registration No. 39 of 2022
CNR No: WBDD01-000621-2022
Present: Sri. A.N.Bhattacharya (JO Code WB00819)
Special Court, NDPS Act at Balurghat

Order No: 17

Date: 02.09.22

Today is fixed for appearance (2), Production (1), Report in final form and also report regarding return of seized articles from the IO.

Both the accused persons on c/b are present by filing hazira.

Accused Amrit Saha is produced from J/C and remanded to J/C till the next date.

Ld. PP files hazira.

No report in final form is received.

A bail application is filed on behalf of the accused Amrit Saha praying for bail on the grounds mentioned therein. Copy served.

The said petition is taken up for hearing.

Ld. Advocate for the accused person submits that the accused person is a local resident within the jurisdiction of this Court and will not abscond if he is released on bail.

Strong objection is made by Ld. PP.

Considering the materials on record and the quantum of seized contraband articles, the prayer for bail of accused Amrit Saha stands rejected.

Received a report from the IO of this case who has raised objection regarding the return of the seized motor cycle on the ground that the said motor vehicle was used to transport the contraband articles in this case.

Considered the submissions of both the sides.

Now, as per the provisions of S. 60 (3) of the NDPS Act, 1985, a conveyance used for transportation of contrabands in a case under the NDPS Act, 1985 will be liable to be confiscated unless the owner of the said vehicle proves that it was so used without his knowledge and he had taken proper precaution against such use. So, until it is proved that the conveyance is used for purpose of committing any act under the Act, it cannot be confiscated to the State. In such a situation, the mere fact that a conveyance might have been used for commission of an offence under this Act; cannot be a ground to refuse its return until and unless it is proved in trial that the said vehicle was actually used for commission of the offence.

As such, I find no reason not to return the seized the motorcycle to its registered owner. Accordingly let the seized motor cycle bearing no. WB-62/H-0063 be return to its registered owner on proper verification and identification on furnishing a bond of Rs. 60,000.00 by the registered owner of the said motor cycle and on condition that he will not change the vehicle or any part thereof or dispose of the same without the permission of this Court. The IO of this case is directed to take a photograph of the vehicle and preserve the same in the CD for future reference.

Let a copy of this order be forwarded to the IO of Hili PS Case No. 73 of 2002 for information and necessary action after the bond as directed above is furnished and accepted.

To **15.09.2022** for appearance (2) production (1) and report in final form

D/C:

Special Court, NDPS Act,
NDPS Act
Balurghat

Special Court,
Balurghat