

CNR No. WBDJ070002162022

JO Code : WB00682

Special NDPS Case No. 12/2022

Order No. 25

Dated 26.04.2023

Accused Chewang Tenzing Bhutia is produced before this court from J/C.

Prosecution files hazira.

The bail application filed by the accused Chewang Tenzing Bhutia is taken up for hearing in presence of Ld. Advocate for the accused person.

Ld. Additional P.P. Mr. Mazhar Ali did not appear before this court on behalf of State as the Ld. Advocate for the accused person has raised contention that the Additional P.P. Mr. Mazhar Ali is not a Special P.P. for the offence under the provision of NDPS Act, 1985. No copy of this bail application has also been served even upon the Ld. District P.P., Kalimpong. Without hearing the State no bail order can be passed in favour of the accused person. Bail prayer of this accused was earlier rejected vide this court's order No. 24 dated 12.04.2023.

On going through the case record and its previous order, I find that this accused was carrying and transporting some contraband drugs and Phototropic substances in his vehicle and on being searched the said accused Chewang Tenzing Bhutia, 56 bottles of Chlopheniramine Maleate and Codeine Phosphate syrups style as Altroex-CD each bottle containing 100 ml syrups, 34 strips of "Winspasmo Forte" each strips containing 8 capsules and 10 strips of Nitrosun-10 tablets each strip containing 10 tablets were found kept in a blue and white printed cotton seat cover kept concealed behind the driver seat of Maruti Suzuki Alto 800 car bearing Regd. No. SK-01T/9926 were recovered from the possession of this accused. On being demanded the driver Chewang Tenzing Bhutia failed to produce any receipt/invoice/doctor's prescription or license in support of possession of such commercial quantity of narcotic drugs and psychotropic substances.

It is also disclosed from the case record that the I.O. has already submitted the charge sheet against this accused person for the offence u/s 22(c) of NDPS Act. Therefore, in the event of charge sheet being submitted before this court against the accused person for the offence u/s 22(c) of NDPS Act, a prima facie case has already been made out against this accused person named Chewang Tenzing Bhutia.

As per the contention raised by the Ld. Advocate for the accused person, this court was pleased to send a copy of order No. 24 dated 12.04.2023 to The Ld. Legal Remembrancer, Govt. of West Bengal, K.S. Roy, Road, Kolkata -700001 requesting to make an appointment of a Special P.P. to deal with the offence under the provision of NDPS Act, 1985 but no order of appointment of Ld. Special P.P. for NDPS Cases for the Court of Ld. Additional District & Sessions Judge, Special Court, Kalimpong has yet been received.

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The Ld. Additional P.P. was conducting the cases under the provision of NDPS Act 1985 before this Additional District & Sessions Judge, Special Court, Kalimpong till date no contention was raised by any of the Ld. Advocate of this Local Bar Association, Kalimpong. In view of the contention raised by the Ld. Advocate for the accused person and as the Ld. Additional P.P. was not allowed by the Ld. Advocate for the accused person for conducting the cases for and on behalf of the State in view of the earlier order No. 24 dated 12.04.2023, Ld. Additional P.P. abstains himself in participating the hearing of bail application filed by the Ld. Advocate for the accused Chewang Tenzing Bhutia.

Without hearing the State of West Bengal, the bail order cannot be passed in favour of the accused Chewang Tenzing Bhutia. No copy of bail application has also been served upon the Ld. District P.P., Kalimpong by the Ld. Advocate for the accused person. In such a situation, the bail application filed by the accused Chewang Tenzing Bhutia is rejected.

In view of the aforesaid discussion made herein above as well as the contention raised by the Ld. Advocate for the accused person, The Ld. Legal Remembrancer, Govt. of West Bengal, K.S. Roy, Road, Kolkata -700001 is further requested to make an appointment of a Special P.P. to deal with the offences under the provision of NDPS Act, 1985 for the Court of Additional District & Sessions Judge, Kalimpong.

Let a copy of this order be further sent to The Ld. Legal Remembrancer, Govt. of West Bengal, K.S. Roy, Road, Kolkata -700001 for his information and taking necessary action in this regard for making appointment of Special P.P. for NDPS Act in the court of Additional District & Sessions Court, Kalimpong.

Let this case be fixed for consideration of charge.

Fix 08.05.2023 for consideration of charge as well as awaiting order from The Ld. Legal Remembrancer Govt. of West Bengal regarding the appointment of Special P.P. for NDPS Act for the Court of Additional District & Sessions Judge, Kalimpong

D&C by me

Sd/-

Judge, Special Court (NDPS)
Kalimpong

Sd/-

Judge, Special Court (NDPS)
Kalimpong