

IN THE COURT OF THE JUDGE, SPECIAL COURT (UNDER NDPS ACT)
SILIGURI.
C.R.(NDPS) CASE NO. 60 OF 2019.
STATE OF WEST BENGAL
VERSUS
MD. NIZAM & THREE OTHERS.....ACCUSED PERSONS

Order No. 19 dated 17.03.2020 :

The accused persons are not produced in the Court room due to the Corona virus outbreak. Today is fixed for submission of FSL report. Bail petition is filed on behalf of the accused persons namely Md. Meherub, Md. Nizam, Md. Basir and Khuseswar Kamti. It is stated that no bail petition is filed or pending before the Hon'ble Court.

Ld. Advocate for the accused persons moves the prayer for bail and submits that though the accused persons are in custody for 225 days and charge sheet has been filed, till date no FSL Report has been submitted. Ld. Advocate for the accused refers to a Division Bench decision of the Hon'ble Calcutta High Court reported in 2014 Cri.L.J. 4823 (reference Sahedul Mahaldar) wherein the Hon'ble Court was pleased to grant bail where there were trial did not commence and the amount seized was just above commercial quantity.

Ld. P.P. raises objection and files a prayer of the IO seeking for 15 days time to file FSL Report.

I have carefully perused the record. The charge sheet in this case was filed on 28.11.2019 without FSL Report and since then time had been granted to obtain the same. It is also found from the record that though charge sheet was filed on 28.11.2019, charge could not be framed due to want of FSL Report. The charge sheet was filed within the statutory period and though the IO had the privilege to seek extension under proviso to section 36A(4) of the NDPS Act the same was not sought. Previously time was awarded to the IO even after 180 days of detention to collect FSL Report on two occasions. The accused persons who are in custody have the right for speedy trial. In the present case, there is no possibility of immediate commencement of trial. Further the seizure list shows that 30 Kgs of substance believed to be Ganja was recovered from the joint custody of four accused persons. Relying on the decision referred above, the quantity of contraband seized and also considering the fact that there is no immediate chance of commencement of trial and the period of detention, the prayer for bail is allowed.

C.R.(NDPS) CASE NO. 60 OF 2019 .

Contd...Or. No. 19 dated 17.03.2020 :

Hence, it is,

ORDERED

the accused persons namely Md. Meherub, Md. Nizam, Md. Basir and Khuseswar Kamti be released on interim bail of Rs.25000/-(twenty five thousand) each with one surety of like amount each which should be local with landed property subject to satisfaction of Ld. ACJM, Siliguri.

To 17.4.2020 for appearance of the accused persons, if released on bail, and IO's report.

Dict. & corrected by me:

Sd/-
Judge, Special Court
(NDPS Act), Siliguri .

Sd/-
Judge, Special Court
(NDPS Act), Siliguri .
