

T.R (NDPS) 12/17

Order No. 02 dt. 18.12.2017:

Accused persons namely, 1) Rahim Mallick, 2) Sk. Serajul Khan and 3) Sk. Belaluddin are produced from J/C. They are taken into custody and remanded to J/C till 22.12.2017.

One bail application is filed on behalf of the accused persons namely, Rahim Mallick and Sk. Serajul Khan. Subsequently, a separate bail application is filed on behalf of accused Sk. Belaluddin.

On behalf of the prosecution one application is filed for seven days police remand of arrested accused persons namely, 1) Rahim Mallick, 2) Sk. Serajul Khan and 3) Sk. Belaluddin. Another application is filed on behalf of the prosecution praying necessary direction upon Ld. J.M., 3rd Court, Tamluk, Purba Medinipur to remain present at the time of collection sample from the seized article.

Petition showing cause is filed by the I.O.

At first, both the applications for bail are taken up for hearing together for hearing

Heard the Ld. Advocates on behalf of the defence.

Ld. Advocate for the accused, Rahim Mallick and Sk. Serajul Khan submits for bail on the ground that this is nothing but out and out false case. According to him seizure is shown to be fake and sample has not been collected from the main stock at the p/o. As search and seizure is complete, there is no more reason for detention. Accordingly, these accused persons may be enlarged on bail on any condition.

Similarly, Ld. Advocate on behalf of accused Sk. Belaluddin. submits for bail on the ground that there is discrepancy in quantum of search as shown in the FIR from the seizure list. He also argued that there is discrepancy regarding the place of occurrence as shown in the seizure list and written complaint.

According to Ld. P.P. In-charge this discrepancy is nothing but printing mistake. He raises objection on the ground that there is recovery of brown sugar weighing 12.40 grams from the possession of accused, Rahim Mallick and Sk. Serajul Khan and 13.76 grams brown sugar from the possession of Sk. Belaluddin. Said Belaluddin is resident of Orrisa. If these accused persons are enlarged on bail, they may abscond and there is

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chance of tampering evidence. He further contends that the investigation is in very early stage.

Perused the case diary and the materials on record.

Considering the stage of investigation and the material in the case diary, I am not inclined to enlarge either of these accused persons on bail, at this stage. So, the prayer for bail in respect of these three accused persons stands **refused**.

At this stage, Id. P.P., submits for seven days police custody in respect of accused persons namely, 1) Rahim Mallick, 2) Sk. Serajul Khan and 3) Sk. Belaluddin. He also submits that there is chance of recovery of further contraband articles and arrest of co-accused.

Ld. Advocates representing defence raises objection on the ground that search and seizure has already been completed. They also argued that from the observation of this Court itself it would be clear that even prior to production before Court they were subjected to physical torture by the police personnel and in this circumstances, if the prayer for PC is allowed they would certainly be subjected to physical torture in utter violence of human rights.

Perused the case diary.

The application for police custody is duly forwarded by the S.D.P.O., Egra, and the O.C., Egra P.S.

In the prayer for police custody ground is shown to be chance of further recovery and arrest of co-accused.

Considering the material in the case diary, the chance of recovery of more contraband articles and the arrest of the other accused, if any, involved in the racket, I am of the humble view that prayer for police custody is justified. But, in my considered opinion, 03(three) days police custody including this day is sufficient to unveil the truth, recovery of more contraband and arrest of the co-accused, if any.

Hence, the prayer for police custody of accused persons namely, Rahim Mallick, Sk. Serajul Khan and Sk. Belaluddin is allowed for 03 (three) days, including this day.

The I.O. is directed to investigate into the case after observing

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all formalities as per direction of the Hon'ble Apex Court of India relating to police custody of accused person and any departure therefrom would be viewed with serious exception. He is specifically directed to get the accused persons medically examined by doctor of Purba Medinipur District Hospital on each and every day including this day and the date of production from police custody.

Superintendent of Purba Medinipur Dist. Hospital at Tamluk is directed to arrange for medical examination of those accused persons by any competent Medical Officer of the hospital, in view of the order above, who shall filled up all the columns of the injury report.

Fix 20.12.2017 for production of accused persons from police custody.

Heard the Ld. P.P., In-charge who submits for direction upon Ld. J.M., 3rd Court, Tamluk, Purba Medinipur to remain present at the time of collection sample from the seized article.

Perused the C.D.

Considered.

It appears to me to keep the sanctity in the process of taking sample from the stocks presence of Magistrate is required as per prevailing law.

As such, Ld. J.M., 3rd Court, Tamluk, Purba Medinipur is requested to remain present at the time of collection sample from the seized article, in c/w this case.

Perused the show cause submitted by Deb Prasad Samanta, S.I. of Police, Egra PS.

Heard the Sri Samanta in person who submits that he had no knowledge how the accused persons sustained the injuries as neither they showed the same before him nor doctor pointed it out.

Ld. P.P. In-charge submits for acceptance of the show cause.

Let the show cause be kept with the record and be considered after receiving the reports of Medical Officer at the time of production of accused persons from the police custody.

Let a copy of this order be sent to the i) Superintendent of

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Purba Medinipur Dist. Hospital, ii) the S.D.P.O., Egra, iii) the O.C., Egra P.S. and iv) the I.O. of this case for their information and necessary action.

C.D be returned.

Dic. & corr. by me,

Sd/-

Judge,
Special Court,

Sd/-

Judge, Special Court
Tamluk, Purba Medinipur