

**IN THE COURT OF THE JUDGE, SPECIAL COURT UNDER NDPS ACT-
CUM- ADDL. DISTRICT AND SESSIONS JUDGE,
3rd COURT, HOWRAH.**

**J.O. Code WB00885
T. R. Case No. 3 of 2024**

Ref : Sankrail PS Case No. 134/2014, dated 17-02-2024 U/s 20 (b)(ii)(C)/29 of N.D.P.S Act.

State

Vs.

- 1) Binod Kumar Shaw @ Raki**
- 2) Biswanath Das**
- 3) Gora Khan**
- 4) Sangram Panda @ Shibu**
- 5) Salman Molla**

Order No. 01 dated 19-02-2024 .

Received the record from Ld. CJM, Howrah along the F.I.R along with formal F.I.R, seizure list, search list, inventory list, copies of notices (5) U/s 50 of the N.D.P.S Act, copies of notices (5) U/s 100 of Cr.P.C, arrest-cum-inspection memos (5), medical papers and forwarding report.

The five accused persons are produced before the Ld. Court from the Howrah District Correctional Home.

The IO files a prayer for police remand of the five accused persons, namely **1) Binod Kumar Shaw @ Raki, 2) Biswanath Das, 3) Gora Khan, 4) Sangram Panda @ Shibu and 5) Salman Molla.**

A vokatnama is filed on behalf of the accused persons.

No bail petition is filed.

Perused the materials on record, as well as the prayer of IO with recommendation of Assistant Commissioner of Police (Head Quarter), Howrah who prays for allowing fourteen (14) days police remand of the accused persons, namely 1) Binod Kumar Shaw @ Raki, 2) Biswanath Das, 3) Gora Khan, 4) Sangram Panda @ Shibu and 5) Salman Molla.

Ld. P.P. In-Charge is present.

CD is produced. IO is present. Heard the I/O.

Perused the CD and the forwarding report duly forwarded by the Assistant Commissioner of Police (Head Quarter) Howrah. The prayer for PC for fourteen (14) days is for the recovery of more ganja and arrest of other associates which appears from the statement of the accused persons in CD that the accused persons will assist the police in recovering more ganja and arrest of their other associates of racket.

It is manifest from the CD that **113.100 kgs ganja** has been recovered from the possession of the accused persons. The investigation agency believes that further recovery can be made on the basis of disclosure made by the accused persons before the police.

Considering the incriminating materials available in the CD and submission of the I/O, I am of the view that PC for four (4) days only is justified.

Hence, the prayer for PC for four (4) days is allowed.

The IO is directed to ensure that utmost care and caution be taken so that the accused persons are not man-handled in any manner whatsoever and to provide them with all possible medical assistance if needed, during the period of police remand. The accused persons must be taken for medical check up on each day during police remand.

The IO is further directed to observe strictly the guidelines set out by our Hon'ble Apex Court in this regard in D. K. Basu Case.

Let the accused persons be returned to the Howrah District Correctional Home, wherefrom the I/O is at liberty to take their police custody.

The Superintendent, Howrah District Correctional Home is directed facilitated to smooth handing over the accused persons to the I/O.

Inform the IO.

To 23-02-2024 for production of accused person positively at 10.30 AM with report.

Return CD to the IO.

Let a copy of this order be sent to 1) Assistant Commissioner of Police (Head Quarter) Howrah and 2) the I/O of this case.

The I/O to take custody of the accused persons from the correctional home.

Dictated & Corrected by me

Special Judge,

**Judge, Special Court under
N.D.P.S Act, Howrah.**

Later

Subsequently, an application is filed by the I/O with a prayer for causing auction of the 440 baggages of onions that were seized along with the contraband.

Perused the application as well as other materials on record.

Heard the Ld. Counsel for the prosecution, as well as I/O in person.

Section 459 of the Cr.P.C relates to power of the court to sell perishable property. Perishable goods such as food products, agricultural produce etc., are subject to speedy and natural decay. Section 457, read with Section 459 empowers the court to sell such perishable goods or hand over possession thereof to the real owner. However, if the property is unclaimed, the same may be sold in public auction with its sell proceeds being deposited in Criminal Court deposits and shall also be entered in the property register. In the event the property continues to remain unclaimed, the sell proceeds shall be confiscated to the State.

While it is not disputed that onions are perishable goods, usually, such decay does not set in immediately. Consequently, this court opines that it would be proper for it to wait at least for a week, prior to disposing of the application filed by the I/O.

Let the same be kept with the record.

To date.

Dictated & Corrected by me

Special Judge,

**Judge, Special Court under
N.D.P.S Act, Howrah.**