

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

**JO Code No. WB00885
Registration No. of 2023
T. R. Case No.15 of 2023
CNR No.**

Ref : NCB Crime No. 18/2023, U/s 8(c) read with section 20(b)
(ii)(c) & 29 of N.D.P.S Act, 1985.

State

Vs.

1) Tinku Sekh

2) Ersad Khan

Order No. 1 dated 15.05.2023

Received the supplementary record from the Court of Ld. CJM, Howrah.

Perused the materials on record.

Register it T R Case under NDPS Act.

Accused Tinku Sekh and Ersad Khan are produced from correctional home.

One vokatnama filed on behalf of the accused Tinku Sekh and Ersad Khan. Let it be kept with the record.

A bail petition filed on behalf of the accused persons Tinku Sekh and Ersad Khan, on the grounds stated therein.

Copy served and objected to.

The record is taken up for bail hearing.

The Ld. Counsel for the defence submits before the court that the accused persons have been falsely implicated and they are in custody since 13.05.2023 and that they will not abscond from the process of the court, if granted bail.

The Ld. P.P Incharge raised strong objection.

This is a case u/s. 8(c) read with section 20(b)(ii)(c) & 29 of N.D.P.S Act. Contraband of Commercial quantity of ganja has allegedly been recovered from the possession of the accused persons. Considering the incriminating materials in the case docket, coupled with the rigors of u/s. 37 of the NDPS Act the prayer for bail of accused Tinku Sekh and Ersad Khan is considered and rejected.

To 20.05.2023 for production and I/O's report.

An application filed by Asif Reja, Intelligence Officer, NCB, KZU Kolkata on 15.05.2023 praying for drawing of representative samples of contraband under the supervision of Ld. Judicial Magistrate and for sending the same to the CRCL, Kolkata for chemical examination.

Perused the impugned application.

Hd. The Ld. Counsel for the prosecution.

The instant application is to be formal in nature and is in consonants with the guidelines of the Hon'ble Apex Court regarding NDPS Cases. Accordingly, prayer of the prosecution for drawing of representative samples in presence of a Ld. Judicial Magistrate is considered and allowed.

Let a copy of this order be sent to the Ld. Judicial Magistrate, 2nd Court, Howrah (Designated Magistrate) for information.

Let a copy of this order also be supplied to the NCB, Kolkata and information and necessary action.

A petition also filed by Asif Reja, Intelligence Officer, NCB, KZU, Kolkata on 15.05.2023 for certification of correctness of inventory under Sec. 52A(2) of the N.D.P.S. Act, 1985 (as amended). The record is taken up for passing order.

Perused the petition along with the materials on record. Considered.

In the case of Union of India (UOI) Vs. Mohanlal and Another (Criminal Appeal No. 652 of 2012) of the Hon'ble Apex Court has been pleased to consider the Standing Order No. 1/89 and to direct collection of information from the police heads of each State on the aspects of seizure, disposal, etc. of Narcotic Drugs and Psychotropic Substances. All narcotic drugs and psychotropic substances have been identified by the Central Government under sub-section (2) of Sec. 52 A of the Act as vulnerable to theft and substitution vide their G.S.R. 339(E) dated 10th May, 2007, published in the Gazette of India, Extra, Pt. II, Sec. 3(i) dated 11th May, 2007, vide G.S.R 38(E), dated 16th January, 2015, published in the Gazette of India. Extraordinary, Part-II, Section-3, Sub-section-(i), dated 16th January, 2015.

In view of the provisions of Sec. 60 of the N.D.P.S. Act the seized Narcotic Drug is liable for confiscation. Thus, certification of correctness of inventory, photographs, taking of photographs of the drugs and substances and drawing of representative sample in presence of the Ld. Magistrate is necessary. So, the application under Sec. 52A(2) of the N.D.P.S. Act should be allowed. Hence the application under Sec. 52A(2) of the N.D.P.S. Act filed by Asif Reja, Intelligence Officer, NCB, KZU, Kolkata on 15.05.2023 is hereby allowed. Accordingly I request Ld. Judicial Magistrate, 2nd Court Howrah to:-

- a) Certify the correctness of the inventory.**
- b) Permit taking, in his presence, photographs of the drugs and substances mentioned in the inventory and certify such photographs are true; and**
- c) Allow drawing of representative samples in his presence and to certify the correctness of the list of samples so drawn.**

Asif Reja, Intelligence Officer, NCB, KZU, Kolkata will produce the seized contraband articles, i.e. 64.200 kgs ganja along with a copy of the inventory of the seized article, prepared by him on the date to be fixed and at the venue to be fixed by the said Ld. Judicial Magistrate First Class.

Let a copy of this order be sent to 1) Ld. Judicial Magistrate, 2nd Court Howrah for performing the above function and to 2) Asif Reja, Intelligence Officer, NCB, KZU, Kolkata for his information and taking necessary action.

To date for production of accused persons.

Dictated & Corrected by me,

Special Judge

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