

**T.R. Case No. 20 of 2024**

**Order No. 06 dated: 04-10-2024**

Today accused Soumya Mallick @ Soumya Sankar Mallick as per the direction has been produced from JC. Today the prayer of the Investigation Officer praying for further PC of the above-named accused for seven days as was filed yesterday is taken up for consideration in the presence of investigating officer of the case.

The above prayer for seven days further PC of the accused is moved by the Ld. PP.

Heard the Ld. PP as well as the investigating officer. While considering the further prayer for seven days PC of the accused, I have carefully gone through the CD of accused particularly the statement of the accused as got recorded U/s 161 of the Cr.P.C and after careful perusal of the same I find that the accused while confessing his guilt has expressed his willingness to assist the investigating officer to recover the other contraband articles as well as has told that he would assist the investigating officer to secure the arrest of other co-accused.

Now the question is whether on the basis above material in CD as placed before this court, the further PC of seven days of the accused could be allowed or not.

Principally, the prayer for PC of any accused is considered if the same could help to recover any articles used in the crime from any particular on the basis of the accused which is largely called statement leading to discovery in terms of Section 27 of the Evidence Act (old Evidence Act). The PC of the accused is not allowed merely for the reason that it would help the investigating officer to arrest other co-accused. Investigation officer may arrest other co-accused after interrogating the accused who has already been arrested.

Under these circumstances and keeping in view of the nature of the statement as got recorded from the above-named accused person, the prayer for PC should not be allowed unless the said statement of the accused could cover the legislative requirement of Section 27 of the Evidence Act fact leading to discovery. As I told that the PC is not allowed merely for the reason that it could help that the investigating agency to arrest other co-accused.

To avail the PC of the accused during investigation, the investigating officer has to show that concerned accused for whose PC prayer has been made has confessed his guilt in the statement recorded U/s 161 of the Cr.P.C and while confessing guilt he has also specified about the particular place (place to be specified must not be evasive or vague) wherefrom the articles sought to be recovered could be recovered and the said statement must have to be recorded in the presence of any independent witness and that statement of the said independent witness has to be recorded wherein he would also certify that the accused really made the above statement. Unless such requirements are fulfilled, the PC of any accused should not normally be allowed. Fact remains that in earlier occasion, this accused was given in PC for seven days and admittedly there has not been any development for which the PC was allowed.

However, for the sake of better investigation of the case, the prayer for further PC of the accused Soumya Mallick @ Soumya Sankar Mallick is allowed for a limited period for five (5) days only.

During PC period, he will invariably get the accused medically examined each after 24 hours in any Govt. Hospital or in any Govt. medical establishment in order to rule out before the court of any physical violence which may likely to be made upon the accused person. Apart from that the investigating officer shall follow the guidelines as given by the Hon'ble Supreme Court of India in *D. K. Basu's Case*.

After completion of the further PC period of the accused for five (5) days, the investigating officer shall produce the accused Soumya Mallick @ Soumya Sankar Mallick before the court of Ld. CJM, Howrah along with the result of the PC on 09-10-2024, the day on which this court will remain closed for Puja Vacation.

Before the accused above-named is given to the police custody, his thumb impression be obtained at the left side margin of this order sheet in order to prove the fact that at the time of the consideration of PC prayer, he was physically produced before this court.

Today the record has been put up today on the prayer of the accused Rudal Singh who separately has filed one bail application praying for his release on bail on the grounds as stated therein. The said bail application is shown served upon the Ld. PP.

Thus today the bail application of the accused Rudal Singh is taken up for consideration in the presence of both sides.

During hearing, the Ld. Advocate appearing for him while praying for his release on bail submitted that the accused is innocent having no nexus with the alleged crime of this case and the seized articles were never seized from his conscious possession. While making the above submission in continuation, the Ld. Advocate further submitted that basically he works as a supervisor under a company of one Mohit Kumar Agarwal and that Mohit Kumar Agarwal is the owner of the premises of the godown wherefrom the said seized materials were recovered and the said godown was leased out to one Debabrata Das. In support of the above submissions, a batch of documentary evidence is shown before the court trying to convince that this accused Rudal Singh who is the supervisor working under Mohit Agarwal does not work for Debabrata Das from whose lease hold godown, the contraband articles were recovered. Ld. Advocate by making the above submission prays for his bail at any terms and condition. Let the above documents as shown before the court be kept with the record.

On the other hand, the Ld. PP appearing for the prosecution raised strong objection saying that the above accused was very much present in the godown when the search and seizure operation was being carried out and therefore, nobody can say that the said seized articles were not recovered from his conscious possession.

After having heard both sides accordingly, I have carefully gone through the CD of the case and I find that when the seized materials were allegedly recovered, this accused was allegedly present in the godown.

Considering the above prima facie materials and stage of investigation of the case which is nascent one and also after considering the seizure of commercial quantity of narcotic substance (codeine phosphate), the prayer for bail of the accused is rejected.

As I see further that one bail application of accused Md. Guddu is filed. The same is shown not to have been served upon the prosecution as well as none appears to move the said bail application, as such the bail prayer for accused Md. Guddu is rejected.

Thus as a whole let a copy of this order be given to 1) IO of this case as regards the order allowing his further PC prayer of the accused Soumya Mallick @ Soumya Sankar Mallick for his information and necessary guidance as well as compliance and at the same time a copy of the order be sent to the Superintendent, Howrah District Correctional Home informing him thereby that the above-named accused Soumya Mallick @ Soumya Sankar Mallick has been sent to PC.

CD is returned to IO.

To date (05-10-2024) for report from IO as regards the correct age of the accused Rahul Das and hearing thereupon.

**Dict & corrected by me**

**Judge, Spl. Court**

**Judge, Special Court under NDPS  
Act, 3<sup>rd</sup> Court, Howrah.  
JO Code No. WB00787**