

Order No. 30, dated 23.09.2022.

Today is fixed for hearing the petition of the defence filed on behalf of accused Asraf Ali @ Firoj.

Record is taken up for hearing.

Heard the Ld. Defence Counsel praying for production of the accused Asraf Ali @ Firoj before the Court of Ld. Spl. Judge, under the N.D.P.S. Act., Room No. P-1 P Building, Patiala House Courts, New Delhi on the scheduled date and time through V.C.

Heard the Ld. P.P. raising objection as to such prayer contending that by order no. 27, dated 17.09.2022 this Court directed to produce the said accused before the Court of Ld. Spl. Judge, under the N.D.P.S. Act., Room No. P-1 P Building, Patiala House Courts, New Delhi physically, and as such, the order cannot be recalled by this Court. Ld. P.P. further submitted that the Ld. Court at Patiala House Courts, New Delhi had issued P.W., may be for the reason that he may be taken into P.C. for which his physical presence is necessary before that Court.

Perused the materials on record including the report of medical officer, B.C.C.H. dated 22.09.2022 being forwarded by the Superintendent, B.C.C.H.

Heard both sides.

Considered.

It appears that P.W. was issued by the Ld. Spl. Judge, under the N.D.P.S. Act., Room No. P-1 P Building, Patiala House Courts, New Delhi in connection with FIR No. 131/22, P.S. Special Cell and he is scheduled to be produced on 26.09.2022 at 10.00 a.m. positively. Now, from the report of Superintendent, B.C.C.H. dated 21.09.2022, it is gathered that he sought for necessary direction before the said Ld. Court of New Delhi regarding the manner of production of the accused on 26.09.2022 before that Court, as to whether he is required to be produced there through video link or not. From the report dated 22.09.2022 of Superintendent, B.C.C.H., it appears that till now no reply has been received regarding the said letter addressed to the Ld. Court at New Delhi. From the medical report it appears that although the accused had history of trauma (bike accident) nine (9) months ago, he was provided necessary medical treatment and presently there is no local inflammation as to the local area of injury and there is no tenderness at present. The doctor opined that he may be produced before the Ld. Court on 26.09.2022 for Court procedure and that he is using clutch for his walk.

Considering the present factual aspects and the materials placed before me, I am of the humble view that this Court cannot sit over on its own order, in other words, cannot revise or recall its earlier order. Accordingly, the Superintendent, B.C.C.H. is directed to carry out the order no. 27, dated 17.09.2022. He is also to take all the necessary precautions considering the medical condition of the accused for his safe and secure production before the said Ld. Court at Patiala House Courts, New Delhi. However, if in the meantime he receives any direction regarding the manner of production from the Court of Ld. Spl. Judge, under the N.D.P.S. Act., Room No. P-1 P Building, Patiala House Courts, New Delhi, he has to follow the said direction.

To date (i.e. on 15.12.2022) for production of the accused before this Court.

The petition of the defence is thus disposed of.

Let a copy of this order be sent to the Superintendent, B.C.C.H. for information and taking necessary action.

Dictated & corrected
by me,

Judge.
(J.O. Code WB 00687)

Judge, Special Court, Under N.D.P.S. Act,
Berhampore, Murshidabad.
(J.O. Code WB 00687)