

Special Case No. 32 of 2022

Present : Sri Arun Singha
Judge, Special Court,
3rd Court, Malda.

Order No. 20 dated 14-07-2022

Today is fixed for hearing the petition dated 08.07.2022 filed on behalf of accused persons Mostek Ahamed and Habibur Rahaman.

Heard both sides.

Ld. Advocate for the accused persons submits that his application is filed as per order of the Hon'ble High Court dated 29.06.2022 passed in CRR No. 1682 of 2022. It is his submission that the Hon'ble Court has been pleased to allow to file this application before this Court afresh with a direction to pass necessary order in accordance with law within one month from date of filing of this application. It is also submitted that the accused persons are innocent who have been falsely implicated in this case. It is his submission that the tower location of the mobile phones of the accused persons being the mobile nos. 8145005853 and 8235702410 from 2:00 am of 18.02.2022 to 11:30 am of 19.02.2022 will prove the innocence of the accused persons. Accordingly, ld. Advocate prays to pass necessary order so that report regarding tower location of those two mobile phone nos. may be submitted. In support of his submission, ld. Advocate submits xerox copy of the Hon'ble Court's order dated 29.06.2022 passed in CRR No. 1682 of 2022.

Ld. Spl. P.P. submits that this application is not proper and the application does not disclose the grounds for which the application is filed. It is also submitted that in the meantime charge-sheet has been submitted and cognizance has been taken. He prays to pass necessary order.

Perused the case record.

The record reveals that the case involves 220 bottles phensidyl of 100 ml. each and the accused persons have been produced before the Court on 19.02.2022.

On hearing both sides on the petition regarding mobile tower locations and on perusal of the petition it appears that the prayer under the petition has been made to pass necessary order to produce and preserve mobile tower location from the period from 2:00 am of 18.02.2022 to 11:30 am of 19.02.2022 of the mobile tower locations of the mobile phones of S.I. Ram Chandra Saha, ASI Samir Sarkar, S.I. Yang Tshering, Civic Volunteers Morselim, Gopal, Aktarul and Masud together with mobile nos. 8145005853 and 8235702410 of the accused persons.

In the aforesaid facts and circumstances, after minutely perusal of the order of the Hon'ble High Court dated 29.06.2022 passed in CRR No. 1682 of 2022 and also on minutely perusal of the petition of the accused persons and comparing the same with the materials in the case record, this Court is of the view that as charge-sheet has been submitted in the meantime and cognizance has also been taken when ER of WA is awaiting against the absconded accused persons, a report may be called for regarding the aforesaid from the S.P., Malda.

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In the circumstances, S.P., Malda is directed to take necessary initiatives to submit report after thorough enquiry regarding the subject of the petition for production and preservation of mobile tower location by the date fixed.

Let a copy of this order along with the instant petition and the downloaded server copy of the Hon'ble Court's order be sent to the S.P., Malda.

S.P., Malda is further directed to submit report at the earliest and latest by the date fixed positively.

To date, i.e., 29-08-2022 for report, ER of WA and production.

Dictated and Corrected by me

Judge Special 3rd Court, Malda
Under N.D.P.S. Act.

Judge Special 3rd Court, Malda
Under N.D.P.S. Act.