

Special Case No. 32 of 2022

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

Order No. 21 dated 29-08-2022

Today is fixed for report, ER of WA, appearance and production.

Accused persons namely Mostek Ahamed, Habibur Rahaman, Kinkar Sarkar @ Moju and Raja Sk. are produced from J.C.

Accused persons Md. Ajam Ali @ Ajom Sk., Abdul Khalek @ Khalek Sk. and Bablu Sekh on bail are present.

Received compliance report from S.P., Malda vide memo no. 4057/E dated 26.08.2022.

Perused the compliance report.

It appears that report has been submitted in compliance with order dated 14.07.2022.

From the report it appears that one raid was held at Sovapur where 4 accused persons were arrested on recovery of 220 bottles phensedyl out of which instant case has arisen. It also reveals that subsequently in compliance with the order of this Court regarding production and preservation of mobile tower location of S.I. Ram Chandra Saha, ASI Samir Sinha, S.I. Yang Tshering, Civic Volunteers Moreselim, Gopal, Akhtarul and Masud from 2:00 am of 18.02.2022 to 11:30 am of 19.02.2022, a requisition was given to O.C., SOG Cell, Malda for supplying CDR/TL. The report also contains the facts of FIR with reference to the members of raiding team in name and also with reference to the date, place and time of seizure and arrest. It further reveals that subsequently O.C., SOG Cell, Malda provided mobile tower location of the mobile phones of the aforesaid persons and of mobile nos. 8145005853 and 8235702410. The report reveals that the enquiry was held by Dy. S.P. (H.Q.), Malda which has been forwarded by S.P., Malda, who has stated in the report that CDR reflects the locations of static mobile towers from where it transmit signal to the mobile phone at the moment.

Two bail petitions are filed on behalf of accused persons Mostek Ahamed, Habibur Rahaman & Raja Sk. Copies served.

Heard both sides.

It is submitted by the ld. Advocates of the accused persons respectively that the mobile tower locations as made out in the report do not match with the place of seizure and arrest. It is their submissions that the accused persons have been falsely implicated in the case. Accordingly, ld. Advocates for the accused persons pray for bail.

Ld. Spl. P.P. opposes the bail prayer.

Perused the case record and the compliance report.

The record reveals that the case involves 220 bottles phensidyl of 100 ml. each and CS has been submitted with CFSL report against these accused persons along with others.

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It also appears that ER of WA is awaiting against the accused persons Ismail Sk. @ Aimless and Sukuruddin Sk.

On minutely perusal of the compliance report regarding tower locations it appears that the tower locations of the relevant date and time appear to be within the area of Sabdalpur under village Nurnagar whereas, the place of arrest as per the enquiry report and the case record appears to be one cultivated land at Sovapur near culvert, both are under Baishnabnagar P.S. The record reveals that CS with CFSL report has been submitted against total 09 accused persons including these accused persons and one juvenile under section 21(c)/29 of NDPS Act.

In the circumstances, considering all aspects, the bail prayers of the accused persons are considered and rejected at this stage.

In the aforesaid facts and circumstances, after minutely perusal of the case record and compliance report, this Court finds that a clarification report is required to be called for in view of the mobile tower locations as per CDR and to ascertain the place of seizure and arrest with topographical position of mobile tower locations and such report may be called for regarding the aforesaid from the S.P., Malda.

In the circumstances, S.P., Malda is directed to take necessary initiatives to submit report after thorough enquiry regarding the aforesaid subject of compliance report with reference to the mobile tower locations at the earliest or by the date fixed.

Let a copy of this order be sent to the S.P., Malda.

Fix **12-09-2022** for report, ER of WA, production and appearance.

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.