

Special Case No. 86 of 2022

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

Order No. 18 dated 22-12-2022

Today is fixed for production and reports.

Accused persons Md. Irsad Ali @ SP, Md. Waker Yunus and Arif Sk. are produced from J.C.

Two bail petitions are filed on behalf of the accused persons. Copies served.

Crux of the submissions of the ld. Advocates are that the accused persons have been falsely implicated in this case. It is further submitted that on 15.12.2022 after filing of the statutory bail petition, petition under Section 36A(4) of NDPS Act along with the report of ld. Dist. P.P. was filed subsequently. It is submitted that on 15.12.2022 the record was put up on the prayer made on behalf of the accused persons for statutory bail. It is also their submission that after extension of time under Section 36A(4) of NDPS Act on 15.12.2022 today was date on record for production of the accused persons and I.O.'s report but no report regarding progress of the investigation is filed. Accordingly, ld. Advocates pray to allow the bail prayers of the accused persons on any condition. In support of their submission ld. Advocates relied upon the decision of the Hon'ble Supreme Court reported in (2009)17 SCC 631 and another decision passed in M. Ravindran vs The Intelligence Officer (Criminal Appeal No. 699 of 2020).

Ld. Spl. P.P. opposes the bail prayers on the ground that already 2 months time has been extended on 15.12.2022 and that has not yet expired.

Perused the case record and the petitions filed on behalf of the accused persons.

On perusal of the case record and on minutely perusal of the order dated 15.12.2022 and also on minutely perusal of the aforesaid decision of the Hon'ble Supreme Court it appears that on 15.12.2022 considering the prayer made under Section 36A(4) of NDPS Act along with the report of ld. Dist. P.P. and also after hearing both sides, 2 months time was granted as extension of time for investigation finding that the said petition under Section 36A(4) of NDPS Act and the report were filed within time, i.e., 180th days which was the statutory period for investigation in the case involving recovery of contraband substance of commercial quantity.

On conjoint reading of Section 36A(4) of NDPS Act with Section 167(2) of Cr.P.C. and comparing the same with the aforesaid decisions of the Hon'ble Supreme Court, this Court finds that right to default bail arises only on the expiry of statutory period.

In view of the aforesaid facts and circumstances, bail prayers of the accused persons are considered and rejected.

Fix **05-01-2023** for production and I.O.'s report.

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.