

NDPS-1/24

26.2.2024

Accd Jahangir Ali Mondal, Imran Seikh @ Raja, Md. Dilnawaz and Mahadeb Nayaban are produced from J/C. They are taken into custody and remanded further to J.C till 11.3.2024.

I.O is present with C.D.

No report in final form has yet been submitted.

I.O has prayed for supply of copy of the confessional statement of accd Imrah Seikh @ Raja recorded U/s. 164 Cr.P.C.

Hd. Ld. P.P and prayer is allowed for the interest of investigation.

The I.O has also prayed for necessary order to re-seize the CCTV footage relevant to this case being already seized in c/w Kasba P.s Case No-516 dtd 30.12.2023.

Hd. Ld. P.P and perused the C.D and the prayer be allowed for the interest of investigation.

The I.O of this case is permitted to re-seize the CCTV footage from Kasba P.s Case No-516 dtd 30.12.2023 being kept at Kasba P.S Malkhana vide MK No-264/23.

Three separate bail applications filed and moved on behalf of accd Md. Dilnawaz, Mahadeb Nayaban and Jahangir Ali Mondal respectively.

I have hd ld. Defence counsels at length as well as Ld. P.P.

It has been submitted that the accd has been in custody for a long period of time inspite of the fact that they are not FIR named and that nothing like contraband substance recovered from any of them and that they have not been seen in the CCTV footage pertaining to this case and that they have been falsely implicated in this case on the basis of statement of co-accd person which has no admissibility in NDPS Act and there is bar provided by the dictums of Hon'ble Courts that no person apprehended in a NDPS case on the basis of statement of co-accd shall not be kept under custody as a routine manner and that since there has been no material to show involvement of any of the accd persons in this case, the rigors of Section 37 NDPS Act shall not apply in respect of the present petitioners inspite of the fact that the case involves commercial quantity of contraband substance.

Ld. P.P has submitted that the case involves commercial quantity of contraband substance and not only the bar shall apply in respect of bail of the accd person but also their active involvement in the offence primarily available after investigation shall

confirm their further detention for the best interest of investigation.

Perused the C.d and other materials on record.

It appears that by a thorough and detailed order dtd. 19.2.2024 prayers for bail in respect of accd Md. Dilnawaz and Mahadeb Nayaban were rejected by this court after consultation with C.d and in fact there has been no further development to raise confidence of the defence for seeking bail today.

However, considering the prayers for bail on merit it appears that the disclosing materials on C.D are sufficient to justify further detention of the petitioners at this stage. Moreover, there has been no materials available to consider innocence of any of the accd person and that they would not commit similar offence, if be enlarged at this stage.

Ld. Defence counsel appearing on behalf of Md. Dilnawaz has categorically submitted that the court must release the accd on bail being apprehended on the basis of statement of the co-accd person which is not admissible under law. It is fact that the petitioner has not been named in the FIR, however his involvement in the offence has been confirmed by the materials available on C.D and in fact the submission regarding scope of Section-67 NDPS Act does not preferably apply in the present context since the co-accd has given confessional statement U/s. 164 Cr.P.C and such statement cannot be placed at par with Section-67 NDPS Act under no circumstances.

Considering the entire facts & circumstances of the case and specific materials available on record confirming involvement of the petitioners in this case that involves commercial quantity of contraband substance, this court is not inclined to grant bail to any of the petitioners at this stage.

Accordingly prayer for bail stands rejected.

To 11.3.2024 for production and I.O report.

Return C.D.

D/corr by me,

4th ASJ, Alipore.

(J.O Code—WB00729)