

NDPS Case No.15 of 2020
JO CODE No.WB00575
CNR No.WBUD01-000915-2020

Order No.36

09.06.2023

The accused Abdul Kalam @ Abul Kalam is produced from J/C and remanded to J/C.

One bail application on his behalf is filed in which it is mentioned that no application on behalf of the petitioner u/s.438 Cr.P.C is pending or rejected by Hon'ble High Court. In separate application with affidavit it is also mentioned that no application u/s.438 or 439 Cr.P.C is pending before any higher forum or rejected.

In this regard affidavit and verified petition has been filed submitting that no petition u/s.438 or 439 Cr.P.C for this accused is pending in any higher forum.

Ld. Lawyer for accused person submits that his client is innocent, nothing has been recovered from his possession and CS has been filed against him by showing him absconding because his client does not have any knowledge about the filing of CS. Then he prays for bail.

Ld. PP in charge raises objection.

Having heard both sides. Having perused the case record, case diaries, it appears that the CS has already been submitted by showing this accused person and another accused Hajart Ali @ Hoja absconding.

The trial has been commenced by fixing the date for evidence in respect of two custodial accused persons from whose direct possession the alleged brown sugar has been recovered.

It is further revealed that complainant on secret information conducted raid and arrested both the custodial accused persons Sk. Dalim and Khurshed Alam after recovery of total 868 and more grams brown sugar from their direct possession.

On interrogation they disclosed that they procured the same from one peddler namely Haharath @ Hoja. Accordingly, complainant as a raiding officer, lodged a complaint suo moto against custodial accused Sk. Dalim and Khurshed Alam along with Hajarat Ali @ Hoja.

Neither there is any whisper against Abdul Kalam @ Abdul Kalam in original complaint nor there is any materials available in CD for involvement and role of accused Abdul Kalam @ Abul Kalam for committing the alleged offence.

It is further revealed that IO of this case has not whispered about the role of Abdul Kalam @ Abul Kalam in this case in his entire CS. He has only submitted CS against three FIR named accused persons and this petitioner Abdul Kalam @ Abul Kalam by inserting his name in col.12 (particulars of the accused persons) showing Hajarat Ali @ Hoja and Abdus Salam absconded. Not a single word is spent in a body of the CS about the involvement and role of this petitioner Abdul Kalam.

I have further carefully perused the entire case diary, I find there is no materials for involvement of this petitioner Abdul Kalam @ Abul Kalam as an accused in this case.

Nothing has been recovered from his possession. Even the statement of the co-accused as available in CD does not implicate the name of Abdul Kalam @ Abul Kalam for involvement of this case.

In view of above, I think this accused petitioner has been able to rebut the restriction imposed u/s.37 of the NDPS Act and the same leads the court to hold that the fundamental rights of the petitioner should not to be curtailed in this case.

Accordingly, I am inclined to allow his bail prayer with certain conditions.

Thus the accused/petitioner Abdul Kalam @ Abul Kalam be enlarged on bail of Rs.5,000/- with two sureties of Rs.2,500/- each, subject to the satisfaction of this court, one of whom must be local with a condition that he must remain present on each and every schedule date fixed by this court unless satisfied by cogent reasons. ID to J/C.

Return CD.

To-date.

Judge(NDPS),

Judge(NDPS),1st Court
Raiganj,U/Dinajpur