

NDPS Case No.15 of 2017
JO CODE No.WB00575
CNR No.WBUD01-001280-2017

Order No.56

13.07.2023

Accused Md. Muslain @ Moslem in J/C is physically produced from J/C and remanded to J/C.

Accused Md. Islam on court bail is absent by petition u/s.317 of Cr.P.C.

One bail petition on behalf of accused Md. Muslain @ Moslem is filed in which Ld. PP has seen with objection.

Today is fixed for 2nd day of evidence with production and appearance as per three days schedule but not a single witness of the prosecution is present. There is no message in this regard about the non-appearance of witnesses.

The bail petition is taken up for hearing.

Ld. Lawyer for the accused person submits that nothing has been recovered from his possession. He has been in custody for long time. Prosecution has not yet been able to exhaust the witnesses list for evidence. Co-accused is on court bail and prays for bail.

Ld. PP strongly raises objection by submitting that commercial quantity of Phensedyl cough syrups has been recovered and due to Panchayat Election witness could not come.

Having heard both sides. Having carefully perused the case record.

It appears that case was started by Kaliyaganj PS. On 19.09.2015 when BSF personnel of Radhikapur BOP handed over the recovered and seized 130 bottles of Phensedyl cough syrups and lodging complaint specifically by giving name of Md. Muslain @ Moslem and Md. Islam with an allegation that on night patrolling duty at 2.15 hrs they noticed two miscreants were moving carrying bags in Indo-Bangladesh border when BSF personnel warned to stop them they fled away towards the village of India by leaving bags. On search BSF personnel recovered 130 bottles of Phensedyl from the bags. On the basis of that FIR police of Kaliyaganj PS started Kaliyaganj PS Case No.292/15 dt.19.09.15 u/s.27/27B of Drugs and Cosmetics Act. During investigation police brought under arrest Md. Islam to the Ld. CJM on 23.09.15 under the charge of 27/27B of Drugs and Cosmetics Act. On that day Md. Islam was granted bail. Thereafter, police during investigation collected the chemical test report of alleged recovered Phensedyl cough syrups and that chemical test report opined that those materials comes under the purview of NDPS Act. Then police submitted CS by adding Sec.21 of NDPS Act along with Drugs and Cosmetics Act against Md. Islam and showing Md. Muslain @ Moslem as absconding.

Accordingly warrant of arrest was issued by this court and Md. Muslain @ Moslem was arrested on 16.09.20 and his bail petition was moved on various occasions including on 15.10.20 but it was rejected with an observation that Sec.37 of the NDPS Act was bar.

This Md. Muslain @ Moslem preferred bail application before the Hon'ble Court vide CRM NO.9060/20 and the Hon'ble Court on 18.11.20 considered and rejected the bail application with an observation that the Hon'ble Court find no reason to interfere the order of the trial court passed on 15.10.20 noticing that the contraband was commercial quantity.

Hon'ble Court has directed to the petitioner/Muslain @ Moslem if there is undue delay for trial it will be opened to the petitioner to apply fresh bail application before the Hon'ble Court.

Again Md. Muslain @ Moslem preferred bail application before the Hon'ble High Court vide CRM No.5866/21 and Hon'ble High Court on 14.09.21 has been pleased to reject the bail application and has given direction to this court to conclude the trial as expeditiously as possible.

In view of above reasons and observations of Hon'ble High Court, the bail prayer of this petitioner Md. Muslain @ Moslem stands rejected.

At the same time in compliance of the direction of the Hon'ble High Court this court has already fixed three consecutive dates for evidence of all the witnesses as per witness column and tomorrow is also the fixed for evidence.

As such, tomorrow is fixed for further order.

Return CD.

Judge

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