

NDPS Case No.27 of 2023
JO CODE No.WB01460
CNR No.WBUD01-002899-2023

Order No. 22
19.06.2024

Today is fixed for production, appearance and report.

Accused Atul Kumar @ Tinku is produced from J/C.

Accused Sanjay Roy @ Raju on bail is absent by petition on the ground of his illness due to injury suffered by him on train accident on the way of his journey from his house.

Today is also fixed for hearing the petition filed on 07.06.2024 for hearing regarding seized vehicle.

The petition is not moved.

Accordingly, the day is adjourned on the hearing of the petition 07.06.2024.

One bail petition on the ground of default bail is filed on behalf of the accused. Copy served.

Ld. Counsels of both sides are present.

Bail petition is moved.

Ld. Advocate for the accused submits that the accused has been falsely implicated in this case and the accused is in custody since 03.09.2023 till date. It is also submitted that CS has been submitted without chemical examination report and after submission of CS several dates have been fixed for the report and till date no report is submitted. It is further submitted that till date it is total more than nine months since the accused being in J/C and it is beyond the statutory period, i.e., 180 days for the case which involves recovery of 234.516 kgs of Ganja which is commercial quantity. Accordingly, he prays for default bail.

Ld. Spl. P.P. opposes the bail prayer and at the same time fairly submits that CS has been submitted without chemical examination report and the report has not been submitted till date.

Heard both sides.

Perused the case record.

On perusal of the case record it appears that accused Atul Kumar @ Tinku is produced before this Court on 04.09.2023 and since then he is in custody. It also appears that CS has been submitted 28.02.2024 against two accused persons including the present accused while the other accused has been on bail and said CS has been submitted u/s.20(b)(ii)(C)/29 of NDPS Act without chemical examination report with a prayer to submit supplementary CS on receiving chemical examination report. Record further reveals that today one compliance report has been submitted by the IO SI Jayanta Kr. Jha with a prayer to fix another date for the report and he has reported to this court that the report has not been prepared. However this prayer is not supported by any written information and or communication of the SDCRL, Kolkata relating to non-preparation of the report till date. Record also reveals that in the meantime a period of detention of the accused in J/C has been more than nine months while since after receiving the CS dates have been fixed for one after another till today even after specific direction upon the IO for production of the chemical examination report on the date fixed and the report is not produced.

In view of the aforesaid facts and circumstances, this court finds that a period above nine months have already been elapsed which is beyond the statutory period in the instant case as the case involves recovery of 234.516 kgs Ganja which is of commercial quantity. In the circumstances, I may not prejudice the indefeasible right accrued to the accused only on the ground of the chemical examination report awaiting till date.

On perusal of the case record and after hearing both sides, I am of the opinion that the prayer for default bail may be considered.

In the circumstances, bail prayer of the accused Atul Kumar @ Tinku is considered and allowed.

Thus, the accused namely, **Atul Kumar @ Tinku** may find bail of Rs. 10,000/- with two registered sureties of Rs. 5,000/-each, to the satisfaction of Ld. C.J.M., Raiganj, Uttar Dinajpur, on condition that on being released on bail the accused shall appear on each and every fixed date before this Court and shall not leave the jurisdiction of the local P.S without permission of the court till disposal of this case and the accused shall not tamper evidence or intimidate the witnesses in any manner whatsoever, i/d to J.C.

The accused Sanjay Roy @ Raju on bail is directed to be present with all relevant medical papers on the date fixed positively.

To 08.08.2024 for production/appearance of the accused persons, if on bail.

To-date for appearance, report and hearing the petition dated 07.06.2024.

Let a copy of this order be forwarded to the Learned C.J.M., Raiganj, Uttar Dinajpur for information and necessary action.

Dictd & Corrt

Judge

Judge, Special Court, NDPS Act,
Raiganj, Uttar Dinajpur

