

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. 47/2023

The State of Tripura

....Applicant(s)

Versus

Sri Abhijit Nama

....Respondent(s)

For Applicant(s) : Mr. S. Debnath, Addl. PP

For Respondent(s) : Mr. D. Biswas, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

05/12/2023

Heard Mr. S. Debnath, learned Addl. PP appearing for the applicant-State. Also heard Mr. D. Biswas, learned counsel appearing for the accused-respondent.

This is an application filed under Section 439(2) of Cr.P.C for cancellation of the impugned order of bail dated 17.08.2023 passed by learned Special Judge, NDPS, Court No.4, West Tripura, Agartala, in connection with GRP P.S. Case No. 2022 GRP 030(NDPS) registered under Sections 21(C)/29 of NDPS Act, 1985.

Sri Abhijit Nama, the accused-respondent herein had surrendered before the Court after so many days of the registration of the case with a medical certificate and the learned Special Judge, NDPS, Court No.4 without verifying the genuinity or the authenticity of the medical certificate produced by the accused-respondent, Sri Abhijit Nama had granted bail. Serious allegations have been levelled against Sri Abhijit Nama, the accused-respondent herein. He was implicated with case No.2022 GRP 030(NDPS) dated 11.12.2022 of AGT GRPS under Section 21(C)/29 of the NDPS Act, 1985. For gravity, the order of the learned Special Judge is necessary to be reproduced here-in-below, extract of which reads thus:

“Without commenting upon the merits of the case and having regard to the facts and circumstances of the case the co-accused namely Prasenjit Debnath has been released on bail. Considering the

medical ground of the accused, the bail application stands allowed. The accused namely Abhijit Nama is released on bail till 11.10.2023 on furnishing bail bond of Rs.1,00,000/- with one surety of like amount in default to J/C till 30.08.2023 with a condition that the surety must be well known to the accused and the accused shall enter appearance before the I.O./O.C. once a week between 10 a.m. to 12 p.m. and shall not leave the jurisdiction of the State of Tripura without the prior permission of this Court.

To date fixed(02.09.2023)

Later on:

Accordingly, accused Abhijit Nama filed a bail bond of Rs.1,00,000/-(Rupees One Lakh) only with one surety of like amount. Manish Sengupta stood as surety. Bond furnished is found correct and accepted.

Release the accused at once.

To date fixed.”

I am really astonished to go through the order dated 17.08.2023 passed by learned Special Judge, NDPS, Court no.4, West Tripura, Agartala in connection with GRPS case no.30 of 2022. Learned Special Judge even did not think over to consider Section 37 of the NDPS Act. He started the sentence “*Without commenting upon the merits of the case*” which itself reveals that he needs to undertake special training by Tripura Judicial Academy. The learned Special Judge must consider the law as contemplated in Section 37 of the NDPS Act. Even the learned Special Judge is not concerned about the judgments of this Court relating to pre-conditions necessary to be considered at the time of granting of bail to an accused implicated in connection with the offending provisions of the NDPS Act.

I am in utter surprise that the learned Special Judge, NDPS, Court No.4, West Tripura, Agartala, even did not think it necessary to direct the investigating officer to verify/examine the genuinity of the medical certificate produced by the accused-respondent.

In this order, I am not inclined to pass any harsh remark, but to maintain the judicial discipline, I cannot refrain myself to express my astonishment having gone through the nature of the order.

Sri S.B. Das, learned Special Judge, NDPS, Court No.4 is hereby cautioned not to pass such type of order in future since the order did not assign any reason to release the accused-respondent, Abhijit Nama on bail.

Hence, Registry is directed to instruct the Director, Tripura Judicial Academy to make arrangements for training of the concerned Judicial Officer on the legal position relating to NDPS Act immediately.

Ex facie, in my opinion, the State has made out a case for cancellation of bail order. During the course of hearing of this bail application, learned Addl. PP has submitted that the investigating officer had investigated as regards the genuinity of the medical certificate, and after being scrutinized it was found that it was a forged/fake document. Even there is no such doctor or such hospital, which has been mentioned in the medical certificate.

A copy of this order may be forwarded to Sri S.B. Das, learned Special Judge, NDPS, Court No.4 by tomorrow. As I already observed that the Registry through the Director, Tripura Judicial Academy will fix a date and inform the officer concerned for necessary training in Tripura Judicial Academy at least for 2(two) days. The two days training should be after the court working hour and the same should not be treated on duty.

With the aforesaid observations and directions, the present application for cancellation of bail stands allowed. The bail is cancelled. The order dated 17.08.2023 is set aside and quashed. The accused-respondent, Abhijit Nama is directed to surrender before the learned Special Judge, NDPS, Court No.4 by tomorrow.

At this stage, learned Addl. PP has informed that the accused-respondent is in custody in connection with another case. As such, necessary steps may be taken by the jail authority.

JUDGE

Snigdha

SANJAY Digitally signed by
GHOSH SANJAY GHOSH
Date: 2023.12.05
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