

Party Name : BILLAL HOSSAIN & ORS Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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This application for grant of bail has been filed by 5(five) accused-petitioners namely (i) Billal Hossain, (ii) Khairol Alam, (iii) Abdul Haque, (iv) Selim Miah, and (v) Sagar Saha in respect of Kamalpur P.S. Case No.47 of 2015 registered on 05.7.2015 against the petitioners under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

The prosecution case, briefly stated, is that 750 bottles of CHOCO and 500 bottles of COREX cough syrup, i.e. a total number of 1250 bottles were recovered from the possession of the petitioners and, therefore, it is a serious offence. The petitioners were arrested on 05.7.2015. They have been behind bars for more than two months and the investigation is almost complete.

Sri R.C. Debnath, learned Addl. P.P., has raised two objections. The first is that none of the accused persons has any property in their name and, therefore, the chances of their absconding are very high. The second submission is that as far as two of the petitioners Billal Hossain and Abdul Haque are concerned, they are habitual offenders and they have been granted bail in other cases and they have misused the bail granted to them by trying to commit another offence and, therefore, no bail should be granted to them.

On 09.09.2015 this Court had directed the petitioners to file the records of the properties. Affidavits have been filed and other than Selim Miah who owns some property, none of the other petitioners owns any property. However, documents have been placed on record in the nature of Aadhaar Card, Voter Identification Card, and Permanent Resident of Tripura Certificates to show that these people are permanent residents of Tripura.

Keeping in view the nature of the offence and also keeping in view the past history of the accused, I am of the opinion that bail may be granted to three of the accused namely Khairol Alam, Selim Miah, and Sagar Saha on the following terms and conditions:-

(i) That, the accused-petitioners namely Khairol Alam, Selim Miah, and Sagar Saha are directed to be enlarged on bail on their furnishing bail bond in the sum of Rs.25,000/- (rupees twenty five thousand) with two sureties each in the like amount to the satisfaction of the learned trial Court. One of the sureties must be by one of the parents or uncles of the petitioners and along with the surety the record of the landed property of such parent or uncle shall be produced and that property shall remain in surety and shall not be disposed of during the pendency of the criminal proceedings. The petitioners shall also furnish another surety of a co-villager on the same terms and conditions;

(ii) That, the accused-petitioners are directed not to tamper with or in any manner influence the prosecution witnesses;

(iii) That, the accused-petitioners shall ensure that no threat directly or indirectly is given to any of the prosecution witnesses;

(iv) The accused-petitioners are further directed not to cause any hindrance in the investigation;

(v) The accused-petitioners shall not leave Tripura without permission of the appropriate Court;

(vi) The accused-petitioners shall appear before the trial Court on each and every date of hearing.

In case, they absent themselves on any date, then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the said persons shall have to approach this Court for grant of bail;

(vii) In case, the accused-petitioners violate any of the conditions or try to delay the trial, the prosecution shall be at liberty to apply for cancellation of bail.

As far as Billal Hossain and Abdul Haque are concerned, from the record I find that already there are two cases pending against Billal Hossain and one case pending against Abdul Haque. They must have been released on bail even in the earlier cases and, therefore, I am not inclined to grant them bail in the present petition.

The bail applications filed by Billal Hossain and Abdul Haque are rejected.

On the petitioners filing application for supply of the copy on payment of appropriate fees, the copy of the same shall be supplied to the petitioner by tomorrow.