

2 21.09.2022

gd/ssd

MAT/928/2022
IA NO: CAN/1/2022
NUR SALIM SHAIKH @ NURSALIM SK
VS
STATE OF WEST BENGAL AND ORS.

Mr. Pratip Mukherjee,
Mr. Omar Faruk Gazi

..for the Appellant.

Mr. Pantu Deb Roy,
Ms. Anand Farmania

..for the State.

By this intra court appeal the writ petitioner has challenged the order of the learned Single Judge dated 10th May, 2022 whereby WPA 13670 of 2021 has been dismissed.

The appellant is the accused in Kaliganj PS Case No.37 of 2020 dated 21.01.2020. The appellant had filed the petition with the plea that he had rented out the premises in question to some other person where the inspection was carried out and search and seizure was done leading to recovery of unlicensed drugs. The appellant had raised the plea in the writ petition that he was not physically present in the premises and that the certain documents offered by him were not accepted by the IO and proper investigation was not done.

Learned Single Judge in the impugned order has

noted that the appellant is an accused in the pending proceedings and he is the co-owner of the property and his anticipatory bail application has already been rejected and he is absconding, therefore, finding no reason to interfere in the writ petition, learned Single Judge has dismissed the same.

Submission of the learned counsel for the appellant is that the appellant has been falsely implicated in the matter and that he is only one of the co-owners of the premises in question and is not connected with the business being carried out in that premises and the business is run by the partnership pharmacy. He has prayed for a direction to the investigating agency to conduct the investigation fairly.

Learned counsel for the State has submitted that the investigation is over and has referred to the report in the form of communication received by the Government Pleader from the Officer-in-Charge of Kaliganj Police Station.

A perusal of the said report reveals that on complaint, the raid of the premises of the appellant was conducted wherein huge stock of drugs without any valid drug licence was found and that the appellant had filed an application for anticipatory bail under Section 438 of the Cr.P.C. being Miscellaneous Case No.422 of 2020, which was rejected by the competent Court on

12th March, 2020. The report further reveals that the chemical examination had disclosed that some of the drugs seized were within the definition of psychotropic substance under the purview of the NDPS Act, 1985. It is also reflected that now the investigation is complete and charge-sheet has been filed on 09.05.2022 under Sections 27(b)(ii)/27(C)/28 of the Drugs and Cosmetics and 21(c) of the NDPS Act and that the appellant being the FIR named accused is absconding.

In the aforesaid circumstances of the case, we are of the opinion that the learned Single Judge has committed no error in dismissing the writ petition.

Hence, no case for any interference in this appeal is made out.

The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

