

15.03.2023.
01.
Ct.No.28
as

C.R.M. (NDPS) 1530 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.33 of 2021 arising out of Uttarpa P. S. Case No.418 of 2021 dated 08.10.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Susanta Mitra @ Sosa & Anr.
... Petitioners.

Mr. Uday Sankar Chattopadhyay,
Mr. Dibakar Sarkar,
Mr. Pronay Basak.
...for the Petitioners.

Mr. Saswata Gopal Mukherji, Id. P.P.,
Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty.
...for the State.

Petitioners alleged they were subjected to custodial torture. This Court observed that the jurisdictional Court had noted injuries on petitioner No. 1's body. Medical examination was advised. In this backdrop, Commissioner of Police, Chandannagar Police Commissionerate was directed to make enquiry.

Preliminary enquiry report being cryptic, a further enquiry was directed. Subsequent enquiry report is placed on record. In the enquiry report, it is recorded petitioner No. 1 claimed that the injuries on his body were due to a prior accident. However, disciplinary proceedings have been initiated against the officers concerned.

In rebuttal, petitioners filed an exception stating that his clients were coerced by the Commissioner to make statements while they were in custody. They were also forced to sign on blank documents. It is relevant to note, inspite of interim bail petitioner continued to remain in custody in view of security proceedings till 14th March, 2023.

Learned Public Prosecutor contends that no contemporaneous complaint with regard to intimidation in course of enquiry was made. Only upon submission of the enquiry report the issue has been raised.

We have considered the materials on record. Undeniably, there were marks of injuries on the body of petitioner No. 1. There are conflicting views with regard to the cause of injuries. While the enquiry officer would contend that the petitioners admitted that the injuries were due to a road traffic accident, it is contended on behalf of the petitioners that they were compelled to make such statement while in custody. Clarity in the matter would have arisen if the arresting officer had followed the directive given by this Court **In Re: Kalu Sk & Ors.**¹ and videographed the search and seizure proceeding. There is a clear breach of the aforesaid directive. In view of their conduct, disciplinary proceedings have been initiated against them.

¹ MANU/WB/0901/2022

Under such circumstances, we are inclined to confirm the interim bail of the petitioner on the same terms and conditions.

The application for bail is, thus, disposed of.

Disciplinary proceedings be taken to its logical conclusion at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)