

13.02.2023.
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Ct. No.28
as/PA
(Rejected)
(Rule)

C.R.M. (NDPS) 48 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.34 of 2022 arising out of Jalangi P.S. Case No.30 of 2022 dated 24.01.2022 under Sections 21(c)/29 of the NDPS Act and Section 25(i)(a) of the Arms Act.

In the matter of : Sukur Mondal @ Sukur Ali Mondal.
... Petitioner.

Mr. Arnab Chatterjee,
Mr. Jishan Iqubal Hossain.
.....for the Petitioner.

Mr. Saswata Gopal Mukherji, Ld. P.P.,
Mr. Saryati Datta.
...for the State.

Petitioner was in custody in Berhampore Correctional Home in connection with another case. While in custody, he entered into conspiracy with co-accuseds viz., Saniya Bibi, Belu Sk. and Najrul Sk through mobile phone.

In view of the aforesaid disturbing facts, enquiry was directed to be made into the matter by Inspector General of Police (Correctional Services), West Bengal. Instead of conducting an enquiry personally, the Inspector General delegated the exercise to Deputy Inspector General (Correctional Home) Berhampore, West Bengal. He mechanically endorsed the report of the delegatee. We do not

appreciate such delegation of responsibility by the Inspector General.

Looking into the report, it appears a mobile phone bearing IMEI No. 358991/22865372/9 and SIM (Airtel) No. 8991510906H10979804138 was recovered from the petitioner who was kept in Ward No.21. Report also discloses search was conducted in 26 wards and 50 cells of the Correctional Home on 18.12.2022 and 24.01.2023 but no electronic device was detected. Call Detail Records (CDRs) show much prior to the aforesaid searches, petitioner had made phone calls from the Correctional Home. This establishes the fact that he was in possession of the mobile phone at the time when the searches were held. Searches held inside the Correctional Home appear to have been done in a very casual manner. It is painful to note that the head of the department i.e. Inspector General of Police (Correctional Services), West Bengal appears to take the most lenient view in the matter.

In the report, he records failure to conduct a thorough search may be attributed to be human error or omission. Fact that possession of electronic devices like mobile phones by inmates not only breaches prisoner discipline but also is a serious threat to security has completely escaped the consideration of the superior officer. Failure to detect such prohibited items during search prima facie amounts to dereliction of duty. No steps have been taken against the

Officers who undertook such casual searches on the aforesaid dates. Records show that the search had been undertaken under the supervision of DSP DNT, Murshidabad and other prison personnel.

We record our displeasure with regard to the casual approach taken by the Inspector General of Police (Correctional Services), West Bengal in the lax supervision of Correctional Homes particularly in the matter of search and recovery of prohibited items from the inmates.

We direct the appropriate authorities to initiate disciplinary proceedings against the officers of the Police and Correctional Home Department who conducted/supervised the aforesaid searches.

We take judicial notice that mobile phones and electronic devices permitting access to inmates to the outside from the Correctional Home is endemic. Many undertrials regularly use mobile phones with impunity to keep contact with miscreants and commit offences from jail. This grave aberration in prison security must be immediately addressed and remedied.

Principal Secretary, Correctional Service and Director General and Inspector General of Police shall look into the matter and take the following steps:-

- (i) Director General and Inspector General of Police and the Principal Secretary (Correctional Services) are directed to ensure thorough searches in all the

correctional homes in the State of West Bengal and ensure that no mobile phone or any electronic device through which access may be made to the outside from the Correctional Homes are in the possession of the inmates. If any gadget is found, the same shall immediately be seized.

(ii) The aforesaid officers shall look into the feasibility of setting up jammers inside the Correctional Homes so that the inmates are unable to use mobile phone or other devices inside the correctional home.

(iii) The officers shall also explore the possibility of setting up X-ray/scanner machines etc., for the purpose of checking inmates at the time when they are initially admitted to custody and/or whenever they are remitted to custody after production in Court or otherwise.

Report with regard to the steps as directed shall be placed before this Court on the adjourned day.

Let this matter appear four weeks hence (13.03.2023).

We have considered the materials on record. Petitioner has criminal antecedents. He was regularly conversing through mobile phone with co-accuseds who were dealing in narcotics above commercial quantity. Conduct of the petitioner places him on a completely different footing from most of the co-accuseds who are on bail.

We are informed that one Saharul Molla @ Saharul Mondal was also in the Correctional Home and had used mobile phone to interact with co-accuseds. He has been enlarged on bail in CRM (NDPS) 1516 of 2022 by order dated 21.12.2022.

We have perused the order dated 21.12.2022 in CRM (NDPS) 1516 of 2022. Saharul Molla @ Saharul Mondal was enlarged on bail on the purported ground that he stood on the same footing with Farhad Mondal and Belu Sk, who were on bail. This is an erroneous finding as the said Farhad Mondal and Belu Sk. had not conversed with co-accuseds while in custody.

Accordingly, we issue a Rule upon Saharul Molla @ Saharul Mondal to show cause why his bail granted on 21.12.2022 in CRM (NDPS) 1516 of 2022 be not cancelled.

Rule is made returnable four weeks hence (13.03.2023).

In view of the aforesaid materials, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)