

**HIGH COURT OF TRIPURA
AGARTALA**

BA 35 of 2024

Archana Das Sarkar
W/O Shri Nikhil Sarkar
Resident of Barjush, Bamutia,
P.S-Lefunga,
District

..... Applicant(s)

Nikhil Sarkar
S/o Late Binanda Sarkar, Resident of Barjush,
Bamutia, P.S- Lefunga, District-West Tripura.

..... Custody Accused Person(s)

Versus

The State of Tripura
(Represented by the Secretary, Home Department),
Government of Tripura, Agartala.

....Respondent(s)

For the Applicant(s) : Mr. J. Bhattacharjee, Advocate
Mr. Sajib Ghosh, Advocate

For the Respondent(s) : Mr. S. Ghosh, Addl. P.P

HON'BLE MR. JUSTICE ARINDAM LODH

Order

05/07/2024

Heard Mr. J. Bhattacharjee, learned counsel appearing for the accused-person. Also heard Mr. S. Ghosh, learned Addl. P.P appearing for the State-respondent.

The brief facts of the case are that the accused-person has been arrested on 15.04.2024 in connection with Lefunga P.S Case No.2023/LFG/028 dated 26.04.2023 under Sections 20(b)(ii)(c)/21(C)/25/29 of the NDPS Act, 1985. The accused was detained in police custody since 15.04.2024 to 24.06.2024. Thereafter, the accused-person was sent to judicial custody. During judicial custody, the accused was tested HIV positive. He was sent to the hospital for treatment, and accordingly, the doctors started his treatment.

Learned Addl. P.P has submitted before this court that the doctors opined that the condition of the accused is outstanding and he is responding to the treatment. Learned Addl. P.P, however, has opposed the bail application in view of the rigors of Section 37 of the NDPS Act.

Mr. Bhattacharjee, learned counsel for the person has produced some bail orders wherein the Hon'ble Supreme Court granted bail to the accused of NDPS cases who had been suffering from HIV.

I have considered the submission of learned counsel as well as the fact that the accused has been suffering from HIV positive. I have kept in mind the rigors of Section 37 of the NDPS Act.

In my opinion, as the accused has been found to be HIV positive, even though the jail authorities have claimed that adequate treatment will be provided to him., but, considering the condition of the accused, he deserves the benefit of granting bail since he is entitled to lead a life with all dignity in an environment that would be congenial to him, and needless to say, it is not possible in jail.

Furthermore, since the accused has been suffering from HIV, it is my reasonable belief that the accused will not involve himself in the trading of any contraband articles in future. On such belief, I am inclined to release the accused on bail.

Accordingly, the accused, namely, Shri Nikhil Sarkar is released on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh) with one surety of like amount to the satisfaction of learned Special Judge, Court No.4, West Tripura, Agartala. However, following conditions are imposed upon the accused:-

- (i) The Accused will not abscond or temper with the evidence or witnesses.
- (ii) He shall cooperate with the process of investigation as and when necessary by the Investigating Officer.
- (iii) He shall make himself available to the court as and when will be summoned by the court during the course of trial.

(iv) The accused shall not leave the jurisdiction of the Ld. Special Judge, West Tripura without prior permission of the said Court.

In the light of above observations and in terms of aforesaid directions, the instant bail applicant stands allowed.

Return the case diary.

JUDGE

HIGH COURT OF TRIPURA



Rohit

सत्यमेव जयते