

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 14 of 2024**

Saumik Dasgupta @ Soumik Das Gupta, aged about 55 years, son of Ashok Dasgupta, resident of 21 (30), Harisava Road, Barrackpore (M), North 24 Parganas, Nonachandanpukur, P.O.- Nonachandanpukur, P.S.- Nonachandanpukur, Dist.- North 24 Parganas (West Bengal).

.... Petitioner

Versus

The State of Jharkhand

.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioner : Mr. Indrajit Sinha, Advocate

: Mr. Sagar Kumar, Advocate

For the State : Mr. Bhola Nath Ojha, Addl. P.P.

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By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with a prayer to quash the order dated 30.11.2023, passed by the learned Special Judge (Drugs and Cosmetics), Jamshedpur in connection with C/2 Case No. 761 of 2004 (Split-2), by which the proclamation under Section 82 Cr.P.C. has been issued. Though other prayers have also been made in this petition but the learned counsel for the petitioner abandons the other prayers and confines his prayer only to quash the order dated 30.11.2023 passed by the learned Special Judge (Drugs and Cosmetics), Jamshedpur in connection with C/2 Case No. 761 of 2004 (Split-2).

3. It is submitted by the learned counsel for the petitioner that there is no material in the record to suggest that non-bailable warrant was ever executed and there is no police report to suggest that the petitioner is absconding or concealing himself to evade his arrest. It is next submitted by the learned counsel for the petitioner that it appears that the police to whom non-bailable warrant of arrest was issued for execution has not submitted any report hence, the basis of the learned Special Judge (Drugs and Cosmetics), Jamshedpur that the petitioner is absconding or concealing himself so that the warrant of arrest cannot be executed is baseless. It is further submitted by the learned counsel for the petitioner that the petitioner has already filed Anticipatory Bail Application No. 8657 of 2023 and in any case, he will appear before the learned trial court within four weeks. It is then submitted by the learned counsel for the petitioner that the petitioner was the sales executive of Pharmacia Laboratories but he has resigned since long from M/s. Pharmacia Laboratories and has no relation at present with M/s. Pharmacia Laboratories, hence, the petitioner was not aware that he is an accused of the C/2 Case No. 761 of 2004 (Split-2) and he is a law abiding citizen. Hence, it is submitted that the order dated 30.11.2023 passed by the learned Special Judge (Drugs and Cosmetics), Jamshedpur in connection with C/2 Case No. 761 of 2004 (Split-2) be quashed and set aside.

4. Learned Addl. P.P. on the other hand vehemently opposes the prayer to quash the order dated 30.11.2023 passed by the learned

Special Judge (Drugs and Cosmetics), Jamshedpur in connection with C/2 Case No. 761 of 2004 (Split-2) and submits that the very fact that the petitioner who is the sales executive of M/s. Pharmacia Laboratories is evading appearance in the trial court even though his former employer M/s. Pharmacia Laboratories is appearing in the trial court goes to show that he is evading his arrest. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

5. Having heard the submissions made at the Bar and after going through the materials in the record, keeping in view the peculiar facts of the case where there is no execution report of the non-bailable warrant of arrest issued to the police and no report has been submitted by the police officer concerned or anyone else placed any materials in the record; for the learned Special Judge (Drugs and Cosmetics), Jamshedpur to come to the conclusion that the petitioner is evading or concealing himself to evade his arrest; this Court is of the considered view that observation of the learned Special Judge (Drugs and Cosmetics), Jamshedpur that the petitioner was absconding or concealing himself to evade his arrest; is without any basis.
6. Under such circumstances, this Court is of the considered view that the order dated 30.11.2023 passed by the learned Special Judge (Drugs and Cosmetics), Jamshedpur in connection with C/2 Case No. 761 of 2004 (Split-2) is not sustainable in law. Accordingly, the same is quashed and set aside.

7. The petitioner is directed to surrender before the trial court, irrespective of the fact; either his anticipatory bail is allowed or not; within four weeks from the date of this order before the learned trial court failing which, it will be presumed that he is absconding and concealing himself to evade his arrest and in such an eventuality, the learned Special Judge (Drugs and Cosmetics), Jamshedpur will pass an appropriate order in accordance with law.
8. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th January, 2024
AFR/Sonu-Gunjan/-