
(2022) 08 RAJ CK 0018

In the Rajasthan High Court

Case No : S.B. Criminal Miscellaneous (Petition) No. 2413 Of 2022

M/s Ridley Life Science Private Limited Delhi

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 08-08-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 68E, 68F

Citation : (2022) 08 RAJ CK 0018

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Lakshimikant Giri, Ram Kumar Gautam

Final Decision : Disposed Of

Judgement

Dinesh Mehta, J

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed with the following prayer:

"1. An appropriate direction may be issued to the NCB official to defreez the account of the petitioner.

2. Set aside the order dated 13.08.2021, passed by the Learned Special Judge, NDPS. Dismissing the application filed by the petitioner for defreezing the account."

2. On 07.05.2022, after hearing rival counsel, this Court had passed the following order:

"1. By way of the present petition filed under Section 482 of the Code of Criminal Procedure, the petitioner has challenged the order dated 13.08.2021 passed by Special Judge, NDPS Act Cases, Jodhpur whereby his application dated 10.08.2021, challenging the letter/communication dated 15.12.2020 issued by the respondent No.2 whereby withdrawal from the petitioner's account

No.42560500000002 has been stopped, has been rejected.

2. Mr. Giri, learned counsel for the petitioner submits that impugned communication is absolutely without jurisdiction inasmuch as even it is assumed that any investigation is pending against the petitioner, the operation of its bank account cannot be stopped as the same amounts to violation of petitioner's constitutional right to carry on trade and business.

3. Mr. Pareek, learned Special Public Prosecutor appearing on behalf of NCB submits that by virtue of powers conferred by Section 68-E and 68-F of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act'), the respondent No.2 has power to seize the bank account and consequently stall the transactions/operations.

4. Learned Special Public Prosecutor further submits that since the petitioner – Company is not cooperating in the investigation and regardless to a number of summons issued to it, the respondent No.2 was left with no option but to issue impugned communication dated 15.12.2020.

5. A perusal of Section 68-E and 68-F of the NDPS Act reveals that during the course of investigation, an Investigating Officer has power to seize the 'property'.

6. In the opinion of this Court, a bank account cannot be said to be a property, much less an illegally acquired property.

7. That apart, no satisfaction/reason has been recorded by the respondent No.2, while issuing impugned communication, which is a sine-qua non for exercise of powers under Section 68-E of the NDPS Act.

8. Matter requires consideration.

9. Issue notice. Issue notice of stay application also.

10. Mr. Pareek, learned Special Public Prosecutor accepts notices on behalf of the respondent and prays for and is granted six weeks time to file reply.

11. List the matter on 15.07.2022, as prayed.

12. Meanwhile, effect and operation of the communication dated 15.12.2020 issued by the respondent No.2 shall remain stayed.

13. Needless to observe that it will be obligatory for the petitioner to cooperate with the investigation."

3. Mr. Ram Kumar Gautam, Director of the petitioner-company appearing virtually, identified by Mr. L.K. Giri, learned counsel for the petitioner, submits that in furtherance of the above referred order dated 07.05.2022, the NCB has defreezed the account and the petitioner is operating his account.

4. Mr. Gautam undertakes that the petitioner would cooperate in the proceedings being undertaken by the NCB and would abide by any direction and order issued

by the NCB during the course of such proceedings.

5. Mr. Giri submits that instant petition has been rendered infructuous.

6. The order dated 07.05.2022 is made absolute; the petition stands disposed of accordingly.

7. Stay petition also stands disposed of.