

HIGH COURT OF TRIPURA
AGARTALA
BA 20 OF 2023

Smt. Aparna Biswas (Barman) on behalf of accused Dilip Barman
Vrs.
The State of Tripura

Present:

For the petitioner(s) : Mr. S. Kar Bhowmik, Sr. Advocate.
Mr. E.L.Darlong, Advocate.
Ms. P. Das, Advocate.

For the Non- : Mr. S. Debnath, Addl. P.P.
applicant/respondent(s)

HON'BLE MR.JUSTICE ARINDAM LODH

11.09.2023

Order

Heard Mr. Samrat Kar Bhowmik, learned senior counsel assisted by Mr. E.L.Darlong and Ms. P. Das, learned counsels appearing for the petitioner.

Also heard Mr. S. Debnath, learned Addl. P.P. appearing for the Non-applicant/State-respondent.

This is an application under Section 439 of CrPC praying for release of the accused Dilip Barman on bail.

Briefly stated, the accused has been arrested in connection with Khowai PS Case No. 2023 KHW 033, dated 01.04.2023, under Sections 20(c)/29 of the NDPS Act, 1985. Investigation was carried out and it was revealed that the accused was carrying 89 bottles of Phensedyl and he was carrying those bottles of Phensedyl in the Dicky-box of his Scooty under the seat. The accused had also prayed for bail on earlier occasions and on the last occasion, bail application preferred for the accused was withdrawn by learned counsel appearing for the petitioner.

The present bail application has been listed today when the accused has been in custody for 164 days.

The main grounds urged by Mr. Kar Bhowmik, learned senior counsel appearing for the petitioner are that the wife of the accused is in advanced stage of her pregnancy and there is none to look after her in his house. Learned senior counsel has further submitted that there is no antecedents of criminal activities of the accused, rather, he was a teacher under the Government of Tripura. His service was terminated along with other

10,322 teachers in terms of the order passed by a Division Bench of this Court which was confirmed by Hon'ble Supreme Court in an appeal. Mr. Kar Bhowmik, learned senior counsel has further assured this Court that it was not physically possible and practicable for the accused to carry 89 bottles of Phensedyl in the Dicky-box of his Scooty.

Mr. Debnath, learned Addl. P.P. has strongly objected the prayer for bail of the accused because of stringent provision of Section 37 of the NDPS Act, 1985.

Despite strong objection of learned Addl. P.P., I have considered the bail application on exceptional ground that the wife of the accused is in advanced stage of pregnancy and there is none to look after her.

There is no dispute that bail is an exception in case of NDPS Act, 1985. I have also kept in mind the essentialities of Section 37 of the NDPS Act, 1985. In the instant case, accused has been in jail for 164 days.

Considering the present condition of the wife of the accused, I am inclined to grant bail to the accused to look after his wife who is expected to give birth a child soon.

Accordingly, accused Dilip Barman shall be released on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees One Lakh) only with one surety of like amount to the satisfaction of learned Special Judge, Khowai Judicial District with the following conditions:

- I. The accused shall not leave the jurisdiction of Khowai PS without prior permission of the Officer-in-Charge of the PS. If the accused needs further treatment for himself outside the State, then, he may seek permission from the learned Special Judge, Khowai Judicial District which will be subject to decision on merit.
- II. The accused shall remain present on each and every dates of trial pending before the learned Special Judge, Khowai, except some unavoidable circumstances, which have to be explained and substantiated by the accused and learned Special Judge shall decide the merit of such application.
- III. The accused shall not in any way evade the trial.

With the aforesaid observations and directions, the instant bail application stands allowed and disposed of.

Registry is directed to send a copy of this order to the learned Special Judge, Khowai Judicial District during the course of the day.

JUDGE

