GAHC040002642023

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : BA 22/2023

1:Yamgolong Ratan
S/o Bolet Ratan,
R/o Damro Village, PO and PS Mariyang, District Upper Siang, AP. Mobile No. 9362607119

VERSUS

1:THE STATE OF AP
Represented by the Public Prosecutor.

Advocate for the Petitioner : Chorpok Modi

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 03.03.2023

Heard Mr. A. Saring, learned counsel for the petitioner. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

This is an application under Section 439 of CrPC praying for grant of bail

to the accused/petitioner, namely, Smti Oyo Ratan, who has been languishing in jail hajot in connection with MRG P.S Case No. 01/2023, under Sections 18/25 of NDPS Act, *read with* Section 34 IPC.

CD has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner that the accused/petitioner is innocent and has not committed any such offence as alleged in the F.I.R. She along with some other women belonging to the same village jointly engaged themselves for cultivating mustard seeds for consumption in the field of one Shri Gemoling Borang, located TolgingSippi, Damro village, but unfortunately some poppy plants were grown up along with the mustard seeds. Being aware of the order of the District Administration for banning of growing up of the poppy plants, the present accused along with the others started up-rooting the poppy plants, but while doing so, the police approach and enquired about the growing of the poppy plants and accordingly they were asked to come to the police station and on 02.02.2023 they arrived at the police station and after enquiring she along with others got arrested. They had no intention to grow poppy in their cultivated field and it was the poppy plants that were grown up their own because they mixed the poppy seeds along with the mustard seeds. The accused/petitioner being lady, her entire family and children are facing problems in her absence. Moreover, she will corporate with the I.O for further investigation of this case and will also appear before the I.O as and when required. She is in custody since last one month and hence, considering her length of detention, she may be allowed to go on bail.

In this context, it is submitted by the learned Additional Public Prosecutor that the statements of all the accused persons were recorded by the I.O and from the statement made by the accused persons, it reveals that they saw the mixing mustards seeds along with the poppy seeds, for which unfortunately, while they were cultivating, some poppy plants grown up. But coming to know about the notification of District Administration, they started up-rooting those poppy plants. However, it is submitted by the learned Additional Public Prosecutor that there is sufficient progress in the investigation of this case and it is seen that some other culprits, especially the owner of the land, is yet to be arrested by the I.O and for apprehending the other co-accused or other culprits, the present accused/petitioner may be enlarged on interim bail so that she can extend her cooperation for booking the other culprits involved this case.

After considering the submissions of learned counsel for the petitioner as well as the learned Additional Public Prosecutor, I have gone through the Case Diary and also perused the status report filed by the I.O. It is seen that the field owner- Shri Gemoling Borang is yet to be arrested in connection with the case and though the samples have been sent for examination to the FSL, the report is still awaited. Accordingly, it is stated that release of the present accused/petitioners may hamper in the investigation of the present case.

Further, it is seen that land owner or some other culprits are yet to be arrested in connection with this case. But from the Case Diary, it reveals that the present accused, along with other co-accused and some others, who were arrested in connection with this case, were never under police custody and since the day of their arrest, they are under the judicial custody and at the same time

it is seen that the I.O has got sufficient time to interrogate the accused/petitioner within custody, since she is behind the bar for last 1 month.

Thus, considering the materials in the Case Diary as well as the considering the length of detention already undergone by the accused/petitioner, I find that further custodial interrogation of the accused/petitioner is not at all necessary in this case and hence, I find it a fit case to allow the petitioner to go on bail with certain conditions.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Judicial Magistrate First Class (Jr. Division), Yinkiong, Upper Siang District, the accused/petitioner, namely, Smti Oyo Ratan, be enlarged on bail, subject to the following conditions:

(i) that the accused shall make herself available for interrogation by the Investigating Officer as and when required;

(ii) that the accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) that the accused shall not leave the jurisdiction of the learned Judicial Magistrate First Class (Jr. Division), Yinkiong, Upper Siang

District, without prior permission.

In terms of above, this bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant