

GAHC010002382023



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

Case No. : Bail Appln./61/2023

MD. RASIDUL ISLAM @ RASIJUL ISLAM
S/O LATE ABU HANIF, R/O DHING RODHAKATI, P.S.-DHING, DIST-
NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.01.2023

Heard Mr. A. Bhattacharyya, learned counsel for the accused and Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Md. Rasidul Islam @ Rasijul Islam, who

has been languishing in jail hazot in connection with the Special [N] Case No. 29/2022 [corresponding to Sivasagar PS Case No. 362/2022], under Section 21[b] of the NDPS Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by SI Nabajyoti Das, on 03.10.2022, to the effect that acting on a tip off they have apprehended 2 persons, namely, Md. Rasidul Islam and Md. Abdul Latif, near the NRL Petrol Pump, Sivsagar at Dikhow Bridge Tiniali at around 4.45 pm. On conducting search of the persons of the accused, they have recovered one blue coloured plastic container, with powdery substance, suspected to be Brown Sugar, weighing 8 grams with plastic container and 1 gram without container.

4. Mr. Bhattacharyya, learned counsel for the accused submits that the accused persons have been arrested on 03.10.2022 and since then they have been languishing in jail hazoot for last 95 days. Further, he has submitted that the quantity of contraband substance allegedly recovered from the possession of the accused is only 1 gram which is small quantity and that the IO has completed investigation and submitted charge sheet, being charge sheet No. 337/2022, dated 20.11.2022, and the accused is ready to participate in the trial, and therefore, it is contended to enlarge the present accused on bail.

5. On the other hand, Ms. Bora, learned Additional Public Prosecutor, submits that the quantity of contraband substance, allegedly recovered from the possession of the accused, is only 1 gram which is a small quantity.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the materials placed on record.

7. It appears that the accused was arrested on 03.10.2022 and since then he

has been languishing in the jail hajat for last 95 days. Further, it appears that the IO has completed investigation and submitted charge sheet before the learned court below. Admittedly the quantity of contraband substance, allegedly recovered from the possession of the accused is only 1 gram, which is less than intermediate quantity.

8. Considering above and also considering the period of detention and the nature of accusation and the punishment prescribed for the offence and also considering the submission of learned Advocates for both sides, this Court is of considered opinion that further custodial detention of the accused seems to be not required in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the learned Special Judge, NDPS Act, Sivasagar, the accused persons are enlarged on bail.

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

JUDGE

Comparing Assistant