

GAHC010002772023



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

Case No. : Bail Appln./75/2023

ABDUL BASET @ IFFU
S/O LT. IQBAL HUSSAIN
R/O AZAD NAGAR, P.S. NAGAON
IN THE DISTRICT OF NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09-01-2023

Heard Mr. S Das, learned counsel for the accused and also heard Mr. BB Gogoi, learned Addl. PP, appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by

accused, **Abdul Baset @ Iffu**, who has been languishing in jail hajot in connection with **Special NDPS Case No.118/2022** (arising out of **Nagaon PS Case No.3126/2021**) under section **20(a)/21(a)/22(c)/25/29 NDPS Act**, since 06.12.2021, for grant of bail.

The said case has been registered on the basis of an FIR lodged by SI Ranjit Gogoi, Town Branch, of Nagaon PS on 06.12.2021, to the effect that acting on a tip off, they have conducted raid in the house of Abdul Baset @ Iffu, on 06.12.2021, at about 8.30 PM, and recovered 8 numbers of plastic vials with suspected heroine owing 1.75 gms, 26 (twenty six) numbers of bottles 'Rexcore' cough syrup Codeine Phosphate & Chlorpheniramine Maleate Syrup, containing 100 ML per bottle and 8 numbers of mobile handset, one blanket, cash amount of Rs.6,320/- and small amount of ganja, wrapped in papers and apprehended accused Abdul Baset @ Iffu, Md. Kabir Hussain, Sri Sanjay Deb, Sri Diganta Borgohain, Md. Wazed Ali, Sri Mihir Dey, Md. Feroz Ahmed and Md. Saju Rahman.

The learned counsel for the accused submits that the accused was arrested on 06.12.2021, and since then, he has been languishing in jail hajot for more than 399 days. Further Mr. Das, also submits that after investigation, the case has already been charge sheeted citing 8 prosecution witnesses and out of the 8 (eight) prosecution witnesses, 6 witnesses have already been examined by the learned court below, and Mr. Das, therefore, contended to allow the petition and alternatively, Mr. Das prayed for directing the learned court below to conduct day to day trial.

On the other hand, Mr. Gogoi, learned Addl. PP has opposed the petition on the ground that the quantity of contraband substance recovered from the possession of the accused is of commercial quantity and the rigors of section 37 NDPS Act come into play and the accused has failed to satisfy the requirement of the said section, and therefore, it is contended to dismiss the petition.

Having heard the submission of learned Advocate for both the sides, I have carefully gone through the petition and the documents placed on record. And it appears that the accused was arrested on 06.12.2021, and since then, he has been languishing in jail hajat for the last 399 days. Further it appears that the learned court below has already framed charge against the accused under sections 21(A)/21(a)/22(c)/25/29 of the NDPS Act, and out of the eight cited witnesses, the learned court below has examined as many as 6 witnesses till date.

In disputably, the quantity of contraband substance from the possession of the accused is commercial quantity and the accused has to satisfy the requirement of section 37 NDPS Act and from the perusal of the materials placed on record and also from the submission of the learned Advocate for the accused, this Court is unable to derive its satisfaction that there exists no reasonable ground for believing that the accused is not guilty of the offence and that he is not likely to commit any offence while on bail.

In view of the above, the petition stands dismissed. However, the learned court below is directed to expedite the trial and if necessary, to take recourse to section 309(1) Cr.P.C., and to dispose of

the same without being influenced by any of the observations made herein above, as the same is made only for the purpose of disposing this bail application.

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

JUDGE

Comparing Assistant