

GAHC010003872023



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

Case No. : Bail Appln./110/2023

CH. LUNKHOLAL MATE
S/O CH. THATKHOJANG MATE
VILL- TENGNOUPAL,
P.S. TENGNOUPAL
DIST. TENGNOUPAL,
STATE- MANIPUR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHETRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 07.02.2023

Heard Mr. B. Chetri, learned counsel for the petitioner. Also heard Ms. S.H. Bora, the learned Addl. P.P. for the State.

2. The petitioner, namely, Ch. Lunkholal Mate, who was shown

arrested on 05.07.2022 in connection with Palashbari P.S. Case No. 379/2021 under sections 21(c)/22(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, is seeking regular bail under section 439 IPC.

3. The learned counsel for the petitioner has submitted that the petitioner is in custody for last 582 days, having been shown arrest on 05.07.2021. It is also submitted that the charge-sheet does not disclose any material against the petitioner because two other co-accused were arrested red-handed on a scooty while transporting the contraband and no contraband was seized from the possession of the petitioner. It is, thus, submitted that the petitioner has been implicated on the basis of surmises and conjectures alone. Moreover, it has been submitted that till date, only one prosecution witness has been examined and therefore, there is no sign of an early trial.

4. In the aforesaid case, the I.O. has submitted charge-sheet No. 256/2021 dated 31.08.2021 against the petitioner before the learned Court of Special Judge, Kamrup, Amingaon, implicating the petitioner of offence. Accordingly, the scanned copy of the case diary was called for from the said learned Court. The learned Addl. P.P. has perused the same and has opposed the prayer for bail as there are sufficient materials against him in the case diary.

5. The case diary reveals that the petitioner is the main supplier of contraband narcotic drugs, which were being transported by the two other co-accused. The two other lady co-accused were stopped at a barrier put up on a public road at 6.30 am, and although they tried to escape, they were caught and on interrogation, they took the police party to their rented house from where the police had seized 96,350 methamphetamine (ya-ba) tablets weighing 10.274 kg as well as Rs.3,70,000/- in cash. The investigation carried out so far

suggests that the petitioner is the supplier of the said narcotic drugs.

6. Under the said circumstances, as the Court finds the petitioner to be involved in the conspiracy of dealing with commercial quantity of contraband narcotic drugs and psychotropic substances, which is detrimental for the well-being of the society, specially the youths of the State, the Court is unable to record its satisfaction that the petitioner is not guilty of such offence, as per the mandate of Section 37(b)(ii) of the NDPS Act, 1985, moreso, because of the fact that the petitioner is also stated to be involved in another NDPS Case, being Palashbari P.S. Case No. 461/2021 under sections 21(b)/29 of the NDPS Act, 1985, which makes the petitioner a suspect in repetitive offence of dealing with contraband narcotic drugs and psychotropic substances. In this regard, we may place reliance on the decision of the Supreme Court of India in the case of *Narcotic Control Bureau v. Mohit Aggarwal*, AIR 2022 SC 3444.

7. Accordingly, the prayer of the petitioner, Ch. Lunkholal Mate for bail in connection with Special NDPS Case No. 44/2021, arising out of Palashbari P.S. Case No. 379/2021 under sections 21(c)/22(c)/29 of the NDPS Act, 1985 is refused at this stage despite the fact that till date only one prosecution witness has been examined.

8. This application is disposed of.

9. Registry shall not issue copy (certified/un-certified) of any part of the scanned case diary.

JUDGE

Comparing Assistant