

GAHC010265722022



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

Case No: Bail Appln./126/2023

SHAHINUR RAHMAN@SHAHNUR SK
S/O- KAMAL SHEIKH @ KAMAL LENGRA
R/O- VILL- CHAR BIDYAPARA
ISLAM NAGAR
PS DHUBRI
DIST- DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. M AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 21.02.2023

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard

Mr. R.J. Baruah, learned APP appearing for the State.

2. The petitioner, who was arrested on 25.07.2022, is seeking regular bail under section 439 Cr.P.C. in connection with Dhubri P.S. Case No. 366/2022, under sections 22(c)/25 of the NDPS Act, corresponding to Special Case No. 432/2022, pending before the Court of learned Special Judge, Dhubri.
3. The learned counsel for the petitioner has submitted that in this case, commercial quantity of drugs was seized from the father of the petitioner and accordingly, charge-sheet against his father was submitted on 17.10.2022. The present petitioner was arrested on 25.07.2022 and charge-sheet against him was submitted on 01.12.2022, under section 22(b) of the NDPS Act. Hence, on the strength of length of detention, the petitioner is seeking bail.
4. The learned APP the opposed the prayer for bail.
5. Perused the scanned copy of the case records received from the learned trial Court. It appears from order dated 01.12.2022 that charge-sheet was submitted against the petitioner on 01.12.2022. The prayer for bail of the petitioner was rejected by the learned Special Judge, Dhubri. Charges were framed and explained to the petitioner and separately to his father by order dated 06.01.2023 and they pleaded not guilty and claimed to be tried. It also appears that the drugs seized from the petitioner was tested positive for tramadol. Therefore, the petitioner is accused of committing offence under section 22(b) of the NDPS Act, which is of intermediate quantity.
6. Under such circumstances, as the petitioner is in custody for last 211 days, and charges have already been framed, the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary. Hence, the Court is inclined to grant bail to the petitioner, namely,

Shahinur Rahman @ Shahnur Sk in connection with the aforesaid case on furnishing bail bond of Rs.1,00,000/- with two solvent sureties of like amount to the satisfaction of the learned Special Judge, Dhubri. Out of the two sureties, one should offer his/her immovable property as security for grant of bail, having sufficient value to cover the bail amount.

7. Bail is granted on the following conditions:

- I. The petitioner 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 Court or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
- II. The petitioner shall not obstruct the smooth progress of the investigation/trial.
- III. The petitioner shall not misuse his liberty in any manner.
- IV. The petitioner shall appear before the Court of learned Special Judge, Dhubri on each and every date. If the petitioner is unable to appear before the said learned Court on any particular date, he would ensure that he is duly represented by his learned counsel on such date.
- V. The petitioner would submit an undertaking before the trial Court that he would not dispute his identity or the identity of the witnesses when the trial proceeds while he is represented by his learned counsel.
- VI. In the event, the petitioner fail to appear before the trial Court in disregard to these conditions, it would be open for the learned Special Judge, Dhubri to pass appropriate orders for cancellation of bail and secure his presence in trial.

VII. If the petitioner is found indulging in similar offence, it would be open for the investigating agency to move the learned trial Court and apply for cancellation of bail.

8. This application stands disposed of.

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

JUDGE

Comparing Assistant