

GAHC010007712023



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

Case No. : Bail Appln./157/2023

CHANCHAL NAG @ TINKU
S/O ARUN NAG
R/O LACHIT NAGAR, H/NO. 82,
OPPOSITE BARWARI KALIMANDIR
P.S. PALTANBAZAR,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. C K NATH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27-02-2023

Heard Mr. S. Munir, learned counsel for the petitioner as well as Mr. Bankim Sarma, learned APP for the State.

2. The petitioner, namely, Chanchal Nag @ Tinku, who was arrested on

04.07.2021 in connection with NDPS case no.139/2021 arising out of Paltanbazar P.S. case no.598/2021 under sections 22(c)/27/28/29 of the NDPS Act, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The prayer for bail is opposed by the learned APP and has referred to the materials against the petitioner in the scanned copy of the case diary which is received from the Court of learned Special Judge-cum-Additional Session Judge no.2, Kamrup (Metro), Guwahati.

4. On a perusal of the scanned copy of the LCR, specifically the seizure list dated 03.07.2021, it does not indicate that any contraband was seized from the possession of the petitioner. On a perusal of the case diary, it appears that after leaving the house of the petitioner, the house of another co-accused was raided and 43 soap cases containing suspected heroin weighing about 599 grams was seized from the said co-accused. The FSL report indicates that the seized contraband was tested positive for heroin and the percentage of heroin was 87.38%.

5. The learned APP has submitted that in the meanwhile out of 11 witnesses 9 have already been examined and only the Scientific officer and the IO remains unexamined.

6. Although the case diary suggests that the petitioner is a part of the racket of selling narcotic drugs, no contraband was found from his conscious possession. Under such circumstances, section 37 of the NDPS Act does not apply in the said case. Accordingly, the Court is inclined to release the petitioner,

namely, Chanchal Nag @ Tinku on furnishing a bail bond of Rs.1 lakh (Rupees one lakh only) with two sureties of like amount to the satisfaction of the learned Special Judge-cum- Additional Session Judge no.2, Kamrup (Metro), Guwahati. Out of two bailors, one should offer his/ her immovable property as security for grant of bail.

7. Bail is granted on the following conditions:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
2. 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 to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the trial/ investigation.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall not jump over the bail.
6. The petitioner shall once again appear before the IO once in 15(fifteen) days and he shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
7. Along with the bail bond, the petitioner shall also submit an undertaking before the learned trial Court on all date without fail, further undertaking that in the event he cannot appear on any

particular date he shall ensure that he is represented by his learned counsel and he shall not dispute his identity and the identity of the witnesses on the date which the petitioner is absent before the trial Court.

8. If the petitioner is found violating any conditions mentioned above, it would be open to the learned trial Court to issue NBWA to ensure expeditious trial.

8. The Registry shall not issue certified/ uncertified copy of scanned copy of the case record.

9. Application stands disposed of.

JUDGE

Comparing Assistant