

GAHC010007812023



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

**Case No. : Bail Appln./178/2023**

CALVINSON KLIEN AND 2 ORS.  
S/O VENUS KLIEN,  
VILL.- UMTA NONGTHYMMAI,  
P.O.- MARNGAR,  
P.S.- NONGPOH,  
DIST.- RI-BHOI, MEGHALAYA.

2: MANKHRAW RONGHANG  
S/O SAION RONGHANG

VILL.- UMTA NONGTHYMMAI

P.O.- MARNGAR

P.S.- NONGPOH

DIST.- RI-BHOI  
MEGHALAYA.

3: MANIK INGTI  
S/O AKOI INGTI

VILL.- UMTA NONGTHYMMAI

P.O.- MARNGAR

P.S.- NONGPOH

DIST.- RI-BHOI  
MEGHALAYA

VERSUS

THE STATE OF ASSAM

REP. BY THE P.P., ASSAM.

**Advocate for the Petitioner** : MR. T HUSSAIN

**Advocate for the Respondent** : PP, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**01.09.2023**

Heard Mr. H. Baruah, learned counsel for the accused petitioners. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

2. By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1) Calvinson Klien 2) Mankhraw Ronghang and 3) Manik Ingti** have prayed for grant of bail in connection with **N.D.P.S. Case No.227/2022** arising out of **Basistha P.S. Case No.488/2022** under Sections **21(c)/29** of the N.D.P.S. Act pending in the Court of learned Addl. Sessions Judge No.2, Kamrup(M) at Guwahati.

3. The scanned copy of case record, as called for, is placed before the Court.

4. Mr. H. Baruah, learned counsel for the accused petitioners, submits that the accused petitioners are youths, aged about 19 and 26 years and hail from a nearby district of Meghalaya. Mr. Baruah further submits that they are languishing in judicial custody for 487 days and since the date of framing charges on 02.01.2023 only 2(two) prosecution witnesses are examined out of 9(nine) listed witnesses. Therefore, Mr. Baruah submits that keeping in

consideration of the poor progress in trial and the young age of the accused petitioners and further, their length of detention, the bail application may be considered favourably.

5. Opposing the bail application, Mr. B.B. Gogoi, learned Addl. Public Prosecutor, submits that charges under Sections 21(c)/29 of the N.D.P.S. Act were framed on 02.01.2023 and thereafter, only two prosecution witnesses are examined out of nine listed witnesses. Mr. Gogoi further submits that if the liberty of bail is granted to the accused petitioners, the remaining part of trial is likely to be hampered. Mr. Gogoi, in this context, has referred to the bar contained in Section 37 of the N.D.P.S. Act.

6. The case relates to recovery and seizure of 765 grams of heroin (commercial quantity) from the possession of the accused petitioners and another

7. It is noticed that the accused petitioners have been in judicial custody since 02.05.2022, that is, for 488 days.

8. Perusal of the case record shows that the learned trial Court framed charges under Sections 21(c)/29 of the N.D.P.S. Act against the accused petitioners and another on 02.01.2023. Thereafter, out of the listed 9(nine) prosecution witnesses only 2(two) prosecution witnesses have been examined so far. The accused petitioners are permanent residents of Meghalaya state. This Court is of the opinion that in view of the bar contained in Section 37 of the N.D.P.S. Act, if the accused petitioners are released on bail at the present stage, the remaining part of trial is likely to be hampered.

9. Therefore, the bail application of the accused petitioners stands **rejected**.

10. However, keeping in view the propositions of law laid by the Hon'ble

Supreme Court in *Mohd. Muslim @Hussain Vs. State(NCT of Delhi)* reported in 2023 LiveLaw (SC) 260 and *Ejike Jonas Orji Vs. NCB, in Criminal Appeal No.2468/2023* as well as the length of detention of the accused petitioners behind the bar, it is provided that the learned trial Court shall make an endeavour to complete recording of evidence of the material witnesses **within a period of 4(four) months** from the date of receipt of a copy of this order, **failing which**, the accused petitioners shall be released on bail subject to conditions.

With the above direction the bail application stands disposed of.

**JUDGE**

**Comparing Assistant**