

GAHC010008172023



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

Case No. : Bail Appln./213/2023

LALAM KHONSAI @ HATNEILAM KHONGSAI
W/O TONGKHOLEN KHONGSAI
R/O LEIJANG (TUIBONG)
P.S. CHURACHANDUR
DIST. CHURACHANDPUR, MANIPUR.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A SHARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 27.04.2023

Heard Mr. A. Sharma, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Addl. Public Prosecutor for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Mrs. Lalam Khonsai @ Hatneilam Khongsai**, has prayed for grant of bail in connection with **North Guwahati P.S. Case No. 109/2022** registered u/s **21(c)/29** of the NDPS Act.

The scanned copy of the case record along with the case diary, as called for, is placed

before this Court.

Mr. A. Sharma, learned counsel for the accused petitioner, submits that the accused woman has been languishing in judicial custody for 192 days. Mr. Sharma further submits that the accused is reported to have been suffering from serious health problem and, as such, subject to any condition she may be directed to be enlarged on bail so that she can avail better medical treatment of her eyes in outside advanced hospital.

Opposing the bail application, Mr. R. J. Baruah, learned Addl. Public Prosecutor, Assam, submits that the case record along with the case diary reveals that the present accused lady, in fact, carried the seized drugs concealed in a Bolero Car, which she hired, from Manipur to Guwahati. Therefore, Mr. Baruah submits that in view of the bar in Section 37 of the NDPS Act, the bail application of the accused petitioner may be rejected.

The FIR, *inter-alia*, reveals the allegation that on 16.10.2022 at around 9.40 PM, a group of drug peddlers were coming from Manipur carrying drugs towards West Bengal in a Bolero vehicle and during search, 765 grams of heroin was seized and recovered from the possession of the accused lady and two others.

It is noticed that the accused woman, who is a resident of Manipur, has been in jail custody since 17.10.2022, i.e. for 192 days.

A perusal of the case record along with the case diary, it is revealed that the accused petitioner and two others were caught red handed with the seized contraband drugs, which is of commercial quantity. The FSL report shows that the sample of seized contraband gave positive tests for heroin.

After completion of investigation, the Investigating Officer has laid charge-sheet under Section 21(c)/29 of the NDPS Act and the learned Trial Court is yet to consider and frame the charges against the accused petitioner and others.

It may be pointed out that pursuant to the order, dated 23.03.2023, the Superintendent, Central Jail, Guwahati, has submitted the health status report of the accused petitioner from the Medical Officer of the Jail. The report indicates that the accused petitioner was undergoing adequate treatment of eye problem in Guwahati Medical College and Hospital (GMCH) on 03.03.2023, 10.03.2023, 17.03.2023 and discharged. She is now provided with

eye drop lubrex only.

Having heard the learned counsel of both sides and perusal of the case record along with the case diary, this Court is of the opinion that in the backdrop of facts and circumstances as emerged and in view of the bar of Section 37 of the NDPS Act, the accused petitioner, who is a resident of Manipur State, is not entitled to be released on bail.

In the premises, the bail application stands rejected.

This disposes of the bail application.

JUDGE

Comparing Assistant