

GAHC010008872023



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

Case No. : Bail Appln./180/2023

BISHNU SAHA@RAHUL
S/O- SRI PABAN SAHA, R/O- NOTUN BAZAR OPP DURGA MANDIR, H NO.
225, P.S- BASISTHA, DIST- KAMRUP(M), ASSAM, PERMANENT ADDRESS-
JAMALPUR, P.S- SILAP, DIST- DARBHANGA, BIHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

19.01.2023.

Heard Mr. M. Ahmed, learned counsel for the accused and Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Bishnu Saha @ Rahul, who has been

languishing in jail hazot since 23.12.2022, in connection with the Basistha P.S. Case No.1035/2022, under Sections 21(a)/29 of the NDPS Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by SI Mukunda Sarmah, on 04.12.2022, to the effect that acting on a tip off they have apprehended three persons, namely, Sri Vicky Sonar, Sri Sanjay Kumar Shah and Sri Dipankar Bhuyan at Kerakuchi, behind the Hockey Stadium and on conducting search, they have recovered suspected heroin, weighing 3.12 grams (without container) and seized the same preparing seizure list, in presence of witnesses. The allegation against the present accused is that he is also involved in the offence and apprehended from the house of Ratan Singh. It is to be noted here that on the basis of statement of co-accused Ratan Singh was arrested and 5.11 grams of suspected heroine was recovered from his possession.

4. Mr. Ahmed, learned counsel for the accused submits that nothing has been recovered from the present accused and the quantity of contraband substance recovered from the co-accused is of less than intermediate quantity and the accused is behind the bar for last 27 days, and therefore, it is contended to enlarge the present accused on bail.

5. On the other hand, Ms. Bora, learned Additional Public Prosecutor, submits that the contraband substance was recovered from the possession of the 3 accused persons namely, Sri Vicky Sonar, Sri Sanjay Kumar Shah and Sri Dipankar Bhuyan and the quantity of contraband substance recovered from them was 3.12 grams only, which is less than intermediate quantity.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the materials placed on record.

7. It appears that the accused was arrested on 22.12.2022, and since then he has been languishing in the jail hajot. Further, it appears that nothing has been recovered from the possession of the present accused. Besides, the quantity of contraband substance recovered from the possession of the co-accused, is admittedly of small quantity, i.e. 3.12 grams and 5.11 grams only.

8. Considering above and also the period of detention, and the nature of accusation and the punishment prescribed for the offence and also considering the submission of learned Advocates for both sides, this Court is of considered opinion that further custodial detention of the accused seems to be not required in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the learned Special Judge, NDPS Act, Kamrup (M) at Guwahati, the accused person, named above, shall be enlarged on bail.

10. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant