

GAHC010009142023



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

Case No. : Bail Appln./177/2023

ABU BAKKAR SIDDIQUE
S/O- LATE BILAT ALI, VILL- GOLAPARA, P.S- ABHAYAPURI, DIST-
BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : M M RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.01.2023

Heard Mr. M.M. Rahman, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned APP appearing for the State.

2. The petitioner, namely, Abu Bakkar Siddique, who was arrested on 04.12.2022, is seeking regular bail under section 439 Cr.P.C. in connection with

Abhayapuri P.S. Case No. 522/2022, under sections 20(a)(i)(ii)(B) of NDPS Act.

3. The learned APP has produced the case diary and has opposed the prayer for bail.

4. The learned counsel for the petitioner has submitted that the wife of the petitioner is pregnant and expected date of child birth was 10.01.2023 and in support of the said contention as a ground for bail, reliance was placed on the case of *Smt. Rekha @ Siddamma & Anr. Vs. the State of Karnataka, Crl.P. No. 200107/2021*, decided by the High Court of Karnataka on 29.01.2021.

5. The case diary reveals that two lots of suspected ganja weighting about 1.642 kg of dry ganja and 14.505 kg of raw/green ganja was seized from the possession of the petitioner and therefore, the quantity of suspected ganja seized from the petitioner is of intermediate quantity.

6. It is noted that the FSL report in respect of banned substances is not available in the case diary. Hence, the Court is of the considered opinion that at this stage, it would not be appropriate to release the petitioner on bail in spite of submission made by the learned counsel for the petitioner that his wife was expecting delivery of child on 10.01.2023.

7. The case law cited by the learned counsel for the petitioner would not be applicable in the present case in hand because in the case cited by the learned counsel for the petitioner, the allegations were against the accused nos.1 to 3 of committing the crime of assault, rioting and murder and the allegation against the two petitioners, who had been granted bail, was that they had instigated the main accused. There is nothing contained in the said order from which it can be understood that the two persons granted bail had actually participated in the crime of murder. Therefore, grant of bail to a pregnant

accused-petitioner in the cited case would not come to aid of the petitioner for whom prayer for bail has been made on the ground that his wife is pregnant. Therefore, the case cited by the learned counsel for the petitioner does not entitle the petitioner to grant bail. Accordingly, the prayer for bail is rejected at this stage.

8. Case diary is returned.
9. Application stands disposed of.

JUDGE

Comparing Assistant