

GAHC010010682023



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

Case No. : Bail Appln./211/2023

MD. ANOWAR HUSSAIN
S/O JONAB KAZI,
VILL.- PALHAJI,
P.S.- BARPETA,
DIST.- BARPETA (ASSAM).

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 23.02.2023

Heard Mr. B. Choudhury, learned counsel for the petitioner. Also heard Mr. Bhaskar Sarma, learned APP appearing for the State.

2. By this application under Section 439 Cr.P.C., the petitioner, namely, Md. Anowar Hussain, who was arrested on 20.11.2022, is seeking regular bail in connection with Garchuk PS Case No. 351/2022 under Sections 21(b)/22(c) of NDPS Act.
3. The learned APP has produced the case diary and has opposed the prayer for bail.
4. It is also submitted that the FSL report with regard to seized drugs has not been received and he prays for some more time.
5. On a perusal of the case diary including the FIR and the forwarding report in respect of the petitioner, it is seen that when the petitioner was intercepted on 20.11.2022, he was apparently waiting for another drug peddler to provide him with the narcotic substance. The petitioner led the police party to the house of one Zahirul Islam Talukdar, but the said person fled away and from his rented house, commercial quantity of drug was recovered and seized.
6. The I.O. has strong suspicion against the petitioner based on the statement made by the co-accused.
7. Under such circumstances, the commercial quantity of the drug was not seized from the conscious possession of the petitioner and as per the FIR, he had led the police party to the house of the main accused from where drugs were recovered.

8. In view of above, no purpose would be served in waiting for the production of the FSL report with regard to contraband insofar as the petitioner is concerned. As the petitioner was not apprehended with the conscious possession of the contraband, rigours of Section 37 of the NDPS Act could not be attracted in this case. Accordingly, considering the length of detention, this Court is inclined to release the petitioner named above on bail in connection with the case aforementioned on furnishing bail bond of Rs.1,00,000/- with two solvent sureties of like amount to the satisfaction of learned Special Judge (NDPS), Kamrup (M), Guwahati on the following conditions:

1. That the petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
2. That 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 witnesses.
3. That he shall not obstruct the smooth progress of the investigation/trial.
4. That the petitioner shall not misuse his liberty in any manner.
5. That the petitioner shall not jump over the bail.
6. That the petitioner shall appear before the I.O. within 7(seven) days from the date of his release and he shall appear

twice in a month till his appearance is dispensed with by the I.O., or filing of the charge-sheet, whichever is earlier.

9. In the event the petitioner is found involved in any similar activities, it would be open to the I.O. to move the jurisdictional court and apply for cancellation of bail.

10. This application stands disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant