

GAHC010011242023



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

Case No. : Bail Appln./236/2023

ABHI DAS
S/O- LT. SHAMAL DAS, R/O- VILL- SONPUR NEAR KALI MANDIR, P.S.
NALBARI, DIST.- NALBARI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 17.02.2023

Heard Mr. K. Thakur, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, the learned Addl. P.P. for the State.

2. The petitioner, Abhi Das, who was arrested on 03.01.2023 in connection with Geetanagar P.S. Case No. 2/2023, under section 22(b) of the

NDPS Act, 1985 and remanded on 04.01.2023, is seeking regular bail under section 439 IPC.

3. The learned counsel for the petitioner has submitted that the petitioner is in custody for last 44 days. It is also submitted that the main FIR named accused had arrived from Dimapur by BG Express train early morning and came to the house of the petitioner. The petitioner was not aware that the FIR named accused was carrying any contraband and was supposed to deliver the same to another FIR named accused person. However, the police had raided his tenanted house and recovered 12 packets of heroin in 12 soap cases, which was found concealed in the bathroom of the petitioner. Accordingly, Geetanagar P.S. Case No. 2/2023 was registered under Section 22(b) of the NDPS Act, 1985. It is submitted that the investigation has already progressed substantially because as per the accused forwarding report, the police had unearthed that the accused who had arrived from Dimapur was to deliver the contraband to another accused named therein. Thus, it is submitted that the FIR dated 03.01.2023 and the accused forwarding report dated 04.01.2023 was sufficient to show that the petitioner was not dealing in narcotic drugs, but he was roped in only because the main accused had happened to come to his house.

4. The learned Addl. P.P. has produced the case diary and has opposed the prayer for bail.

5. The investigation carried out so far reveals that Dipankar Das, the accused who had come from Dimapur by train had handed over the drugs to Milton Chakraborty, the accused who was residing in the house of Abhi Das, the petitioner. When the police raided the house of the petitioner, the contraband drugs kept in 12 soap boxes, which was concealed in the bathroom of the

petitioner was recovered.

6. The investigation also reveals that the receiver of contraband drugs was not only a drug addict, but was also a drug peddler, which was known to the petitioner. Therefore, he had knowingly allowed the drug peddler to use his premises for commission of crime, which is otherwise an offence under section 25 of the NDPS Act, 1985.

7. Nonetheless, the case diary reveals that the last entry in the case diary is on 06.01.2023. Therefore, there is no further progress in the investigation.

8. Hence, the Court is inclined to release the petitioner, namely, Abhi Das on bail on his furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh only), with two solvent sureties of like amount to the satisfaction of the learned Special Judge (NDPS), Kamrup (M), Guwahati. Out of the two bailors, one should offer his/her immovable property as security for grant of bail.

9. Bail is granted on the following conditions:-

- a) 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 tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses.
- b) That he shall not obstruct the smooth progress of the trial.
- c) That the petitioner shall not misuse his liberty in any manner.
- d) That the petitioner shall not jump over the bail.
- e) The petitioner shall not leave the jurisdiction of Kamrup (M)

District without prior permission from the Investigating Officer.

f) The petitioner shall physically appear before the Investigating Officer once every 15 (fifteen) days till his personal appearance is dispensed with or charge-sheet is submitted, whichever is earlier. During his appearance before the I.O., it would be open to the I.O. to question the petitioner in order to complete the investigation.

g) If any of the condition for grant of bail is not complied with, it would be open to the Investigating Officer to move the jurisdictional Court for cancellation of bail and/ or for issuing fresh NBWA against the petitioner.

10. Application is disposed of.

11. Case diary is returned.

JUDGE

Comparing Assistant