

GAHC010017082023



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

Case No. : Bail Appln./798/2023

MD ABDUL ALI
S/O- MD. HABIBUR RAHMAN, R/O- VILL- BHETAMUKH, P.S. CHANGSARI,
DIST.- KAMRUP (ASSAM)

VERSUS

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

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

03.04.2023

Heard Ms. S. K. Nargis, learned counsel appearing for the accused petitioner as well as Mr. R. J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely,

Md. Abdul Ali, has prayed for grant of bail in connection with **Special N.D.P.S. Case No.41/2022 arising out of Changsari P.S. Case No. 123/2022** registered under Section **22(b)/29 added Section 21(C) of N.D.P.S. Act.**

The status report along with the depositions of witnesses, as called for, is placed before the Court.

The case relates to recovery and seizure of 65 numbers of Al-Qurex cough syrup and one car bearing registration No. AS01DT/2019 from the possession of the FIR named accused persons.

It is noticed that the accused petitioner has been in judicial custody since 10.06.2022, that is, for 297 days.

Ms. Nargis, learned counsel for the accused petitioner submits that the accused has been languishing in judicial custody for 298 days despite being innocent. Ms. Nargis further submits that out of 09(nine) listed prosecution witnesses, 05 (five) witnesses are already examined in the case. Ms. Nargis also submits that the co-accused persons are already enlarged on bail and that the petitioner's father is bed ridden at home.

Mr. R. J. Baruah, learned Additional Public Prosecutor, submits that the prime accused, namely, Safik Ali and Manoj Boro from whose possession the seized contraband was recovered are already enlarged on bail. There is no clear implication of the present petitioner with the alleged offence.

In the backdrop of facts stated above as well as the length of detention, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the remaining part of trial of the case may unlikely to be adversely affected.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge (N.D.P.S. Act), Amingaon** subject to the following conditions-

- (i) That the accused petitioner shall continue to appear before the learned trial court on all dates to be fixed from time to time till the case is disposed of;
- (ii) That the accused 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 the court; and
- (iii) That the accused/petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

This disposes of the bail application.

JUDGE

Comparing Assistant