

GAHC010021762023



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

Case No. : Bail Appln./414/2023

MD. AJAGOR ALI
S/O- LATE JALAL UDDIN, R/O- TATIKATA PATHAR, WARD NO. 4, P.S.
MOIRABARI, DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 02.03. 2023

Heard Mr. S. Nawaz, learned counsel for the petitioner and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

The petitioner, Md. Ajagor Ali, who was arrested on 14.01.2023 is seeking regular bail under Section 439 Cr.P.C. in connection with Moirabari P.S. Case No. 10/2023, registered under Section 21(b) of the NDPS Act.

The learned Addl. PP has produced the case diary, which does not contain the FSL report and he opposed the prayer for bail on the ground that the petitioner was in the possession of 52.66 grams of suspected contraband to be heroin which was recovered from him.

The learned counsel for the petitioner submits that the petitioner has been in judicial custody for last 47 days and the investigation has substantially progressed.

Considering the matter in its entirety, this Court is of the view that as intermediate quantity of the contraband was seized from the petitioner, there are materials against him, yet his further custodial detention may not be required at this stage and the Court is inclined to grant bail to the petitioner.

In view of the above, the petitioner, namely, Md. Ajagar Ali, is released on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh only) with one solvent surety of the like amount to the satisfaction of the learned Special Judge (NDPS), Morigaon in connection with the aforementioned case under the following conditions:-

1. The petitioner shall appear before the I.O. once every 15 (fifteen) days till his completion of investigation. 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. 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,

3. The petitioner shall not, in any manner, try to overawe or influence or intimidate the prosecution witness and the petitioner shall not obstruct the smooth progress of the investigation/ trial.
4. The petitioner shall not hamper with the investigation or tamper with the evidence of the case and shall not misuse his liberty.
5. The petitioner shall appear before the I.O. within 10 days from the date of his release and shall continue to appear till his appearance is dispensed with by the I.O. or filing the charge-sheet, whichever is earlier,
6. Alongwith the bail bond, the petitioner shall also submit an undertaking that if on perusal of the FSL report, the bail is dismissed, he would surrender before the police for further investigation.

The I.O. is directed to complete the investigation and produced the FSL report before the trial court incorporating that the contraband seized suspected to be heroin or not.

In the instant case, with regard to the statement recorded by the I.O., the Court is of the considered opinion that the nature of the evidence of the witnesses collected by the I.O. and produced before the court be re-examined by a superior officer of the rank of Circle Inspector or Superintendent of Police, Morigaon.

A copy of this order be furnished to the leaned Addl. PP for onward transmission to the S.P., Morigaon.

With the above direction, the bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant