

GAHC010029762023



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

Case No. : Bail Appln./518/2023

MD. FARUK AKHTAR @ MD. FARUQUE AKHTAR
S/O LT. MAHAMMAD ALI
R/O VILL- KANTAPUR
P.S. LAKHIPUR
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27-02-2023

Heard Mr. S. Munir, learned counsel for the petitioner as well as Mr. Bankim Sarma, learned APP for the State.

2. The petitioner, namely, Md. Faruk Akhtar @ Md. Faruque Akhtar, who was arrested on 31.12.2022 in connection with Dispur P.S. case no.2720/2022

under section 21(c)/29 of the NDPS Act, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP has produced the case diary and has opposed the prayer for bail. He also prays for some time to obtain the FSL report.

4. On a perusal of the case diary, it appears that as per the Seizure list dated 31.12.2022, 18 nos. of container containing suspected drugs/ brown sugar weighing 24.86 grams with the container was seized and the total weight of contraband is shown to be 4.945 grams without container. Thus, although the case is registered under section 21(c)/29 of the NDPS Act, there is nothing in the case diary to suggest that commercial quantity of contraband is found from the petitioner. Thus, although there are incriminating materials against the petitioner of possessing contraband drugs on considering that quantity of contraband seized was 4.945 grams without container. Therefore, the rigors of section 37 of the NDPS Act would not be applicable in this case.

5. As the petitioner has spent 58 days in custody the Court is of the considered opinion that the further custody of the petitioner is not warranted and the Court is inclined to release the petitioner, namely, Md. Faruk Akhtar @ Md. Faruque Akhtar on furnishing a bail bond of Rs.50,000/- (Rupees fifty thousand only) with one surety of like amount to the satisfaction of the learned Special Judge (NDPS), Kamrup (Metro), Guwahati.

6. Bail is granted on the following conditions:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
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 or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the trial/ investigation.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall not jump over the bail.
6. The petitioner shall once again appear before the IO once in 15(fifteen) days and he shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
7. In the event the IO finds the petitioner is involved in similar offence, dealing with contraband drugs it would be open to approach the jurisdictional Court and apply for cancellation of bail.

7. Case diary is returned.

8. Application stands disposed of.

JUDGE

Comparing Assistant