

GAHC010037252023



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

Case No. : Bail Appln./609/2023

BILAL HUSSAIN @ BILLAL HUSSAIN
S/O AKBAR ALI AHMED
VILL- PURABHORAL
P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 30.03.2023

Heard Mr. H. A. Ahmed, learned counsel appearing for the accused petitioner as well as Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Bilal Hussain @ Billal Husain**, has prayed for grant of bail in connection with

Gobardhana P.S. Case No. 58/2023 under Section **353** of the IPC r/w Sections **22(b)/29** of the NDPS Act.

The case diary, as called for, is placed before the Court.

Mr. H. A. Ahmed, learned counsel for the accused petitioner, submits that the accused has been in judicial custody since 08.02.2023, i.e. for 51 days despite recovery of only 40.69 grams of suspected heroin, which amounted to intermediate quantity, from the joint possession of the accused and another. Therefore, Mr. Ahmed submits that considering the length of detention, the accused's bail prayer may be considered favourably.

Per contra, Mr. B. Sarma, learned Addl. Public Prosecutor, submits that the case diary reveals sufficient incriminating material against the accused petitioner. Mr. Sarma further submits that the accused is a habitual drug trafficker in Barpeta and other adjoining districts of Assam and he is facing another case under the NDPS Act. Mr. Sarmah submits that the FSL report is yet to be received.

The matter relates to recovery and seizure of 40.2 grams of suspected crystal methamphetamine and 0.49 grams of suspected heroin from the joint possession of the accused petitioner and another.

It is noticed that the accused has been in judicial custody since 08.02.2023, i.e. for 51 days.

A perusal of the case diary reveals that 40.2 grams of suspected crystal methamphetamine and 0.49 grams of suspected heroin were recovered and seized from the joint possession of the present accused and another. The FSL report is, of course, yet to be received.

The accused has been facing trial in another case, being Gobardhana P.S. Case No. 76/2021 under Sections 22(a)(b)/29 of the NDPS Act, indicating thereby his criminal antecedent.

Keeping in consideration of the above facts and circumstances and as the bar contained in Section 37 of the NDPS Act appears to be not applicable to the case, and further, the length of detention, this Court is of the opinion that continuation of his detention in judicial custody in the interest of investigation is not required.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), Baksha, Mushalpur** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution witnesses; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission; and
- iv) That out of the two bailors, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court

below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Breach of any of the above conditions of bail shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant