

GAHC010053112023



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

Case No. : Bail Appln./905/2023

RUNA BEGUM
W/O JUBEL AHMED
VILL- BAGARSANGAN, P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 20.04.2023

Heard Mr. H. R. A. Choudhury, learned senior counsel for the petitioner. Also heard Mr. B. Sharma, learned Addl. Public Prosecutor for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Runa Begum**, has prayed for grant of bail in connection with **Karimganj P.S. Case No. 114/2023** u/s **22(c)/25/29** of the NDPS Act.

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

Mr. H. R. A. Choudhury, learned senior counsel appearing for the accused

woman, submits that the accused has been languishing in jail custody along with her four months' old baby for 73 days despite being absolutely innocent. Mr. Choudhury further submits that she was totally unaware of the YABA tablets being kept in rice grain rack at her matrimonial home, which is surrounded by 4/5 dwelling houses belonging to other families consisting of more than 20 male members with easy excess to each other's houses. Mr. Choudhury also submits that the accused lady is the mother of five minor children including a four months' old baby, who is in the jail custody with her. According to Mr. Choudhury, learned senior counsel, as the investigation might have progressed in the meantime and being absolutely innocent, the accused lady may be directed to be enlarged on bail.

Vehemently opposing the bail application, Mr. B. Sarma, learned Addl. Public Prosecutor, Assam submits that as the contraband involved was of commercial quantity, in view of the bar in granting bail in such matter under Section 37 of the NDPS Act and the recovery of the same was being made from her dwelling house, the bail application may not be accepted. Mr. Sarma further submits that the case diary shows that the accused was involved in cross-border drugs trafficking and, therefore, her release on bail will encourage her to get involve in similar offences while on bail.

The matter relates to recovery and seizure of 1000 grams of YABA tablets from the house of the accused petitioner.

It is noticed that the accused lady along with her husband has been in judicial custody since 08.02.2023, i.e. for 73 days.

Perusal of the case diary reveals that the police of Karimganj P.S. recovered and seized 1000 grams of YABA tablets from inside the store room of the house of Jubel Ahmed, the husband of the present accused petitioner and, accordingly, both the husband and wife were arrested. The husband had initially fled away during police raid. The sample of the seized tablets is forwarded to the FSL for chemical analysis and the report is awaited.

The case diary further reveals that the accused petitioner and her husband are suspected to have been involved in cross-border drug trafficking and, accordingly, vigorous investigation is on.

The accused petitioner lady has five minor children as averred in para 6 of the application and as noted in the order, dated 03.03.2023 by the learned Special Judge (NDPS Act), Karimganj, she has a new born baby. There is a bar in granting bail in matter involving commercial quantity of drugs under Section 37 of the NDPS Act and, as such, in the backdrop of overall facts and circumstances until substantial progress in investigation is made, the bail application of the accused petitioner cannot be accepted.

Accordingly, the bail application of the accused lady stands **rejected**.

As the accused has been in jail custody, the Investigating Officer is directed to expedite investigation.

The Superintendent, District Jail, Karimganj, is directed to provide necessary health support to the accused mother and her baby as per Jail Rules.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant