

GAHC010069362023



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

Case No. : Bail Appln./1188/2023

CHANDESWAR SAH @ CHUTU
S/O LATE MANAGER SAH
R/O VILL- GANESH NAGAR (KUHIYAR BARI) NEAR BSNL OFFICE, P.O.
SUKHANJAN, P.S. BOKAJAN
DIST. KARBI ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR T KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 27.04.2023

Heard Mr. A. Saikia, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Addl. Public Prosecutor for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Sri Chandeswar Sah @ Chutu**, has prayed for grant of bail in connection with **NDPS Case No. 39/2022 (Khatkhathi P.S. Case No. 32/2022)** registered u/s **21(C)/24/29** of the NDPS Act.

The scanned copy of the case record, as called for, is placed before this Court.

Mr. A. Saikia, learned counsel for the accused petitioner, submits that the accused has been languishing in judicial custody for 397 days on the basis of a statement of a co-accused person, who implicated him in the case. According to Mr. Saikia, 487.03 grams of suspected heroin, which amounted to commercial quantity, was recovered and seized from co-accused Bimal Paul only, which he carried. Therefore, Mr. Saikia submits that subject to any condition, the accused petitioner may be directed to be released on bail.

Mr. R. J. Baruah, learned Addl. Public Prosecutor, submits that the seized contraband was recovered from the possession of the co-accused, namely, Bimal Paul. After framing of the charges under Sections 21(C)/29 of the NDPS Act, the learned Trial Court has examined two prosecution witnesses out of listed five witnesses.

The matter relates to recovery and seizure of 487.03 grams of suspected heroin from the possession of the FIR named accused person.

It is noticed that the accused petitioner has been in jail custody since 26.03.2022, i.e. for 397 days.

On scrutiny of the case record along with the case diary, it is prima facie revealed that the present accused petitioner used the co-accused Bimal Paul to carry the suspected heroin of commercial quantity from Dimapur for selling somewhere at Bokajan. This prima facie finding is, however, subject to final outcome in trial.

In the above backdrop of facts and in view of the bar in granting bail involving commercial quantity of drugs under Section 37 of the NDPS Act, this Court is of the opinion that the accused petitioner cannot reasonably be granted the liberty of bail on consideration of length of detention.

Accordingly, the bail application stands rejected.

It is, however, provided that the learned Special Judge (NDPS Act), Karbi

Anglong at Diphu shall make an endeavour to complete the trial of the case, if deemed necessary, fixing a calendar of hearing and avoiding unnecessary adjournments.

With the above direction, the bail application is disposed off.

JUDGE

Comparing Assistant