

GAHC010069732023



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

Case No. : Bail Appln./1191/2023

ALTAF KHAN
S/O HARUN KHAN
R/O SANGAILUMPHAM
P.S. THOUBAL,
DIST. THOUBAL, MANIPUR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. A. MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 25.05.2023

Heard Ms. A Medhi, learned Counsel for the accused petitioner as well as Mr. RJ Baruah, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Altaf**

Khan has prayed for grant of bail in connection with **NDPS Case No.49/2022** arising out of Jagiroad PS Case No.198/2022 under Section u/ss 21 (c)/29 of the NDPS Act. pending in the court of learned District and Sessions Judge, Morigaon, Assam.

The scanned copy of case records along with status report is received.

Ms. A Medhi, learned Counsel for the accused petitioner submits that the accused has been languishing in judicial custody for 391 despite being innocent. Ms. Medhi further submits that no incriminating material was, in fact, recovered and seized from the exclusive and conscious possession of the accused. On the other hand, Ms. Medhi submits that in the case out of listed seven witnesses, four witnesses are already examined. Therefore, Ms. Medhi submits that subject to any condition, the accused may be directed to be released on bail.

Opposing the bail application Mr. RJ Baruah, learned Additional Public Prosecutor, submits that the accused has been implicated with the alleged offences charged with by the PWs-1 and 4 and as such, at the fag end of trial of the case as well as in view of the bar under Section 37 of the NDPS Act, the bail application of the accused, who hails from Manipur State, may not be considered favourably.

The case relates to recovery of 43 nos. of soap cases containing suspected heroin weighing 567 grams from the joint possession of the present accused petitioner and two other co-accused persons.

The accused is in judicial custody for 391 days since 29.04.2022.

A perusal of the case record shows that charges under Sections 21 (C) /29 of the NDPS Act were framed against the accused petitioner, vide order, dated 13.09.2022.

The record reveals that there is a list of six prosecution witnesses in the charge-sheet. Out of them, four prosecution witnesses are examined so far till 20.02.2023.

It is further noticed that one co-accused namely, Basir Khan was released on bail as he was urgently required to undergo surgery vide order, dated 15.03.2023 passed in Bail Application 3297/2022.

Now, having considered the above facts and circumstances and the bar in granting bail in the matter involving commercial quantity of drugs under Section 37 of the NDPS Act as well as the case being at the fag end of trial, this Court finds it not a fit case to grant the accused petitioner the liberty of bail.

Accordingly, the bail application of the accused petitioner stands rejected.

However, the accused petitioner is given liberty to file fresh bail application before the learned trial court, if so advised and if such bail application is filed, the same shall be considered and disposed of in accordance with law at an appropriate stage of trial of the case.

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

JUDGE

Comparing Assistant