

GAHC010073892023



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

Case No. : Bail Appln./1276/2023

FILTER KOLITA @ KALITA
S/O SRI SORESH KALITA
R/O VILL- HALLOKHOWA, BARPATHAR
DEOPANI, P.O. BOKAJAN
P.S. BARPATHAR
DIST. KARBI ANGLONG, ASSAM
PIN-782480

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SRI NITUL SAIKIA
S.I. POLICE
KHATKHATI POLICE STATION
DIST. KARBI ANGLONG
ASSAM PIN-78248

Advocate for the Petitioner : MR S K SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 11.05.2023

Heard Mr. S. K. Sarkar, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Sri Filter Kolita @ Kalita**, has prayed for grant of bail in connection with **Khatkhathi P.S. Case No. 70/2022 (G.R. No. 217/2022)** u/s **20(c)/21(b)/29** of the NDPS Act.

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

Mr. S. K. Sarkar, learned counsel appearing for the accused petitioner, submits that the accused has been in judicial custody for 242 days. Mr. Sarkar further submits that the accused was the driver of the vehicle only and he had no knowledge about transportation of the contraband.

Opposing the bail application, Mr. B. Sarma, learned Addl. Public Prosecutor, Assam submits that a huge quantity of *ganja* and heroin were recovered and seized from the accused driver of the vehicle. Mr. Sarma further submits that the charges were framed on 20.12.2022 and, thereafter, only one prosecution witness, out of listed six prosecution witnesses, is examined. Therefore, in view of the bar under Section 37 of the NDPS Act, the bail prayer of the accused may be rejected.

The case relates to recovery and seizure of 864.270 Kg. of *ganja* and 40.70 grams of heroin while the accused was transporting in vehicle driven by him.

It is noticed that the accused petitioner has been in judicial custody since 11.09.2022, i.e. for 242 days.

The case record reveals that charges under Sections 20(b)(ii)(c)/21(b)/29 of the NDPS Act were framed against the accused and two others on 20.12.2022. Thereafter, only one prosecution witness, out of six listed witnesses, is examined.

It is further revealed that the recovery of the huge quantity of contraband was made from a secret chamber outside the driver's cabin.

This is a case of serious nature and the case diary reveals the accused's direct involvement in the secret transportation of contraband.

Therefore, this Court is of the opinion that in view of the bar in granting bail in matter involving commercial quantity under Section 37 of the NDPS Act, the accused is not entitled to be released on bail at the present initial stage of trial of the case.

Accordingly, the bail application stands rejected.

The learned Trial Court is, however, directed to expedite trial of the case.

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

JUDGE

Comparing Assistant