

GAHC010079212023



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

Case No. : Bail Appln./1361/2023

MOHAMMAD SHAKIB @ MOHAMMAD SAKIB AND ANR
S/O- LT. LAIK AHMED, VILLAGE- KITHOORI, RAM SANEHI GHAT, P.S.
ZAIDPUR, DISTRICT- BARABANKI, UTTAR PRADESH

2: MD. MASUD AHMED
S/O- MD. MEHMUD AHMED
VILLAGE- KITHOORI
RAM SANEHI GHAT
P.S. ZAIDPUR
DISTRICT- BARABANKI
UTTAR PRADESH

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. N N B CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 26.06.2023

Heard Mr. N.N.B. Choudhury, learned counsel for the petitioners. Also
heard Mr. B. Sharma, learned Additional Public Prosecutor for the

State/respondent.

2. This is an application filed under Section 439 Cr.P.C., seeking bail by the petitioners, namely, **Mohammad Shakib @ Mohammad Sakib and Md. Masud Ahmed**, in connection with NDPS Case No. 96/2022, registered under Section 22(c)/24/29 of NDPS Act, 1985, pending before the court of learned Additional District and Sessions Judge No.2-cum-Special Judge, Kamrup(M) at Guwahati.

3. The learned counsel for the petitioners has submitted that both the accused/petitioners were arrested on 07.01.2022 and since then they are languishing in jail. Both the petitioners are the driver and handyman by profession of a truck bearing Regd. No. UP-42-AT-3045 and deals with the transportation of goods and services within the territory of India. It is also submitted that no psychotropic substances have been recovered from the vehicle of the petitioners. Both the petitioners were arrested purely on suspicion. None of witnesses have been implicated any of the petitioners regarding their involvement in this case. Considering the period of detention, bail may be granted to the petitioners.

4. On the other hand, the learned Additional Public Prosecutor for the State has submitted that the evidence of the witnesses has been completed. The case is at the stage of argument. Considering the last stage of trial, bail may not be granted to the petitioners.

5. I have considered the submissions made by the learned counsel for the parties and I have also perused the evidence of the witnesses recorded by the learned trial court.

6. I have also perused the status report submitted by the learned Additional District and Sessions Judge No.2, Kamrup(M) which reveals that on 02.07.2022, the charge has been framed against the accused/petitioners along with other accused persons. During the course of trial, 8(eight) witnesses have been examined and on 12.05.2023 evidence from the prosecution side was closed. On 07.06.2023, statement of the accused persons including the present petitioners were recorded under Section 313 Cr.P.C. and the case is pending at the stage of argument.

7. It appears that contrabands were recovered from the other vehicle bearing Regd. No. NL-01-L-3909 and nothing was recovered from the possession of the accused/petitioners. There is no allegation against the present petitioners that they were the receiver of the contraband articles seized from truck No. NL-01-L-3909.

8. In view of the above as well as the length of detention of the accused-petitioners in custody, this Court is of the view that petitioners deserve to be enlarged on bail.

9. Accordingly, the accused-petitioners, named above, shall be released on bail in connection with NDPS Case No. 96/2022, registered under Section 22(c)/24/29 of NDPS Act, 1985, on furnishing bail bond of **Rs.1,00,000/- (Rupees One Lakh)** each with **two suitable sureties** each of the like amount, one of whom must be a Government servant, to the satisfaction of learned Additional District and Sessions Judge No.2-cum-Special Judge, Kamrup(M) at Guwahati.

The direction for bail is further subject to the conditions that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of Additional District and Sessions Judge No.2-cum-Special Judge, Kamrup(M) at Guwahati, without prior written permission from him;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

10. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant