

GAHC010079612023



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

Case No. : Bail Appln./1484/2023

AJIT ORANG
S/O RAMESH ORANG
VILL- SANKARPURGAON
P.S. URIAMGHAT
DIST. GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS B R A SULTANA (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 22.05.2023

Heard Ms. BRA Sultana, learned Legal Aid Counsel for the accused petitioner as well as Mr. B Sarma, learned Addl. P.P., Assam for the State respondent.

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

Orang has prayed for grant of bail in connection with **Special NDPS PS Case No.66/2022** under Section u/ss 21 (c)/29 of the NDPS Act.

The scanned copy of case records is received.

Ms. BRA Sultana, learned Legal Aid Counsel appearing for the accused petitioner submits the accused has been languishing in jail for one year despite being innocent. Ms. Sultana further submits that the accused was the driver of the vehicle from which the contraband was seized and he had no knowledge about it. It has been submitted that the prosecution has examined only four witnesses out of 21 listed prosecution witnesses. Therefore, Ms. Sultana submits that the accused may be directed to be released on bail subject to any condition.

Opposing the bail application Mr. B Sarma, learned Additional Public Prosecutor, submits that the record reveals that 457.76 grams of contraband brown sugar was recovered and seized from inside the backlight of the Maruti Ertiga vehicle driven by the accused and he was involved in criminal conspiracy of drug trafficking. Therefore, Mr. Sarma submits that in view of the bar contained in Section 37 of the NDPS Act, the liberty of bail may not be granted to the accused.

The accused is in judicial custody for 361 days since 26.05.2022.

A perusal of the case records shows that charges under Sections 21 (C) /29 of the NDPS Act were framed against the accused petitioner vide order, dated 22.11.2022. Thereafter, the prosecution has examined four witnesses out of twenty one listed witnesses of the charge-sheet. There are more material witnesses to be examined by the prosecution, that is, no substantial part of trial of the case is completed . Therefore, this court is of opinion that in view of the

bar contained in Section 37 of the NDPS Act in granting bail in the case involving commercial quantity, the accused petitioner cannot be released on bail at the present stage of trial of the case.

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.

Further, the learned trial court shall make an endeavour to dispose of the case at the earliest time possible, if deemed necessary by maintaining a calendar of hearing.

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

JUDGE

Comparing Assistant