

GAHC010079782023



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

Case No. : Bail Appln./1346/2023

MANGAL DAS
S/O- MINTU DAS, R/O- VILL- DAKSHIN CHENGMARI (NEAR HEMAGURI
SCHOOL), P.O. AND DIST. ALIPURDUAR, WEST BENGAL, PIN- 736123.

VERSUS

UNION OF INDIA
LEARNED STANDING COUNSEL, DIRECTORATE OF REVENUE
INTELLIGENCE.

Advocate for the Petitioner : MR. K KASHYAP

Advocate for the Respondent : SC, DRI

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

04.05.2023

Heard Mr. K. Kashyap, learned counsel for the accused petitioner as well as Mr. S.C. Keyal, learned Standing Counsel, D.R.I.

2. By this petition under Section 439 Cr.P.C., the accused/petitioner, namely **Mangal Das** has prayed for grant of bail in connection **NDPS Case No. 91/2018**

pending in the Court of learned Special Judge No.1, Kamrup (M), Guwahati arising out of **D.R.I. Case No. 03/CL/NDPS/GANJA/DRI/GZU/2018-19 dated 04.05.2018** under Sections **20(c)/29** of the NDPS Act, 1985.

3. The scanned copy of case records, as called for, is placed before the Court.

4. Mr. K. Kashyap, learned counsel for the accused petitioner, submits that the accused petitioner has been languishing in judicial custody for more than 5 years in connection with the instant charge-sheeted case. Mr. Kashyap further submits that although the charges under Sections 20(c)/29 of the NDPS Act was framed in July, 2019, not a single prosecution witness is examined by the prosecution/D.R.I. till date and as such, he may be directed to be released on bail subject to any condition(s).

5. Opposing the bail application, Mr. S.C. Keyal, learned Standing Counsel for the D.R.I./respondent submits that 1500.390 kg of ganja was recovered and seized from the cavity constructed secretly on the backside of the driver's seat of a truck of which the accused was the handyman. The investigation revealed that the present accused petitioner and co-accused driver namely one Amit Rabha transported the aforesaid amount of ganja intentionally. Mr. Keyal further submits that the trial of the case has been delayed as there was no Presiding Officer for about 05(five) months. Therefore, Mr. Keyal submits that in view of the bar in granting bail in a case involving commercial quantity, the bail application of the accused petitioner may be dismissed with suitable directions to the learned trial Court.

6. The case relates to recovery and seizure of 1500.390 kg of ganja from the possession of the present accused and another with a carrier truck in its makeshift secret chamber.

7. It is noticed that the accused petitioner has been in judicial custody since 05.05.2018, that is, for 5 years.

8. It is further revealed that after completion of investigation, the D.R.I. submitted Final Complaint on 29.10.2018 against the present petitioner and 02(two) others

under Sections 8(c)/22/29 of the NDPS Act, but placed before the learned Special Judge, Kamrup (M) at Guwahati on 12.11.2018 and then transferred to the Court of learned Additional Sessions Judge, Kamrup(M) at Guwahati on 07.01.2019. Thereafter, on 01.07.2019, the charges under Sections 20(c)/29 of the NDPS Act were framed on 01.07.2019. In the meantime, accused Amit Rabha expired. Thus, for various reasons since the framing of charges on 01.07.2019, there is no progress in trial and no prosecution witness is examined.

9. It may be pointed out that for the aforesaid reasons, it may not be reasonable for the Court to detain the accused for a prolonged period for years indefinitely without trial, against his right to speedy justice.

10. Therefore, despite the bar in Section 37 of the NDPS Act, it is provided that the prosecution/D.R.I. shall produce all the material witnesses within a period of 03(three) months from the date of receipt of a copy of this order, failing which the learned trial Court shall enlarge the accused petitioner on bail subject to any condition(s) to be deemed necessary.

11. To facilitate early recording of evidence, the learned trial Court shall plan a suitable calendar of hearing, to the knowledge of the prosecution well in advance.

12. With the above directions, the bail application stands **rejected**.

13. Registry to forward a copy of this order to the learned trial Court and to the Registrar (Vigilance) for information.

JUDGE

Comparing Assistant