

GAHC010080782023



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

Case No. : Bail Appln./1439/2023

MANJURA KHATUN
W/O SORHAB ALI
VILL- DOLAIGAON, PT.III
P.S. AND DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 19.05.2023

Heard Mr. MH Ahmed, learned Counsel for the accused petitioner as well as Mr. B Sarma, learned Addl. P.P., Assam for the State respondent.

By 2nd this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Manjura Khatun** , has prayed for grant of bail in connection with

Bongaigaon PS Case No.10/2023 under Section u/ss 20 (ii) (C) of the NDPS Act r/w Section 4 of the Assam Ganja and Bhang Prohibition Act.

The case diary is received.

It may be mentioned that earlier vide order, dated 29.03.2023, the prayer for bail of the present accused petitioner was rejected in Bail Application 855/2023.

Mr. MH Ahmed, learned Counsel for the accused petitioner submits that the accused has been in judicial custody for 136 days in connection with the case.

Mr. Ahmed further submits that the accused's husband resides with the accused wife and their two minor children at a rented house of Sofiur Ali at New Bongaigaon town. In the same compound another family of Kashi Rai also resides as tenant. Mr. Ahmed further submits that there is another side of shed used by the landlord, which is not used by the family of the accused. According to Mr. Ahmed on the relevant day, in absence of her husband, she resided at the house of the maternal uncle and on that very day, the police raided at the house compound. Mr. Ahmed submits that the accused petitioner's husband had filed an FIR against one Raushan Singh, who has been involved in many criminal cases. However, on recovery of some suspected ganja in the house compound, the police picked up her out of suspicion. Therefore, Mr. Ahmed submits that the case being a false and fabricated one, the accused lady may be directed to be released on bail. It has been vehemently submitted that the accused lady has been languishing in jail along with her sick child, who was born on 03.04.2020 vide the birth certificate Annexure-2.

Opposing the bail application Mr. B Sarma, learned Additional Public Prosecutor, submits that the case diary reveals that ganja of commercial quantity was recovered and seized from inside of the dwelling house of the accused lady, who

is a veteran drug trafficker and retail seller. Mr. Sarma further submits that the sample of seized substance gave positive tests for cannabis. Therefore, Mr. Sarma submits that in view of the bar contained in Section 37 of the NDPS Act, the accused cannot be given the liberty of bail at the present incomplete stage of investigation.

The FIR reveals the allegation of recovery and seizure of 21.071 Kgs of Ganja from the rented house of the accused petitioner.

It is noticed that the accused lady is in judicial custody for 135 days since 05.01.2023.

On scrutiny of the case diary, it is apparently revealed that the seized ganja was recovered from the rented dwelling house of the accused petitioner. There is abundance of *prima facie* evidence showing that the accused lady and her husband namely, Sohrab Ali have been dealing in ganja, who collect the same and sell to the customers for personal pecuniary benefits.

The case diary does not indicate that any other person had conspired by roping her in a false case to wreck vengeance as averred in the petition.

Therefore, in the opinion of this Court in view of the stringent bar in Section 37 of the NDPS Act, the liberty of bail if granted to the accused petitioner, there is every chance of her getting involved in the illegal trade of drugs while on bail.

Therefore, the bail application of the accused lady petitioner stands rejected.

As the accused petitioner has been in jail custody, the investigating officer is directed to expedite investigation.

The Superintendent, District Jail, Bongaigaon is directed to provide proper all-round welfare steps for the healthy growth of the child of the accused petitioner as per Jail Manual/Rules.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant