

GAHC010219202023



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

Case No. : Bail Appln./1510/2023

MAJIBUR RAHMAN
S/O MD. SADDIK ALI
R/O PACHIM BIHAPARA
P.S.-TAMULPUR
DIST-TAMULPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR S M ABDULLAH P
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

08.11.2023

Heard Mr. S.M. Abdullah P., learned counsel for the accused petitioner. Also heard Mr. M.P. Goswami, learned Addl. Public Prosecutor, Assam appearing for

the State respondent.

By this second petition under Section 439 Cr.P.C., the accused petitioner, namely **Majibur Rahman** has prayed for grant of bail in connection with **Rangia P.S. Case No.747/2022** under Sections **20(b)(ii)(C)/29** of the N.D.P.S. Act.

The earlier bail application of the accused petitioner being Bail Appln. No.389/2023 was rejected by this Court vide order, dated 22.03.2023.

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

The case relates to recovery and seizure of 23.645 kg of ganja amounting to commercial quantity under the N.D.P.S. Act.

It is noticed that the accused has been in judicial custody since 12.12.2022, that is, for 332 days.

Perusal of the case record shows that the learned trial Court framed charges under Sections 20(b)(ii)(C)/29 of the NDPS Act against the accused petitioner and 2(two) others vide order, dated 12.07.2023. Thereafter, out of the listed 6(Six) prosecution witnesses 5(Five) PWs are already examined in the case.

This Court is of the opinion that although there is bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity in view of the mandate under Article 21 of the Constitution of India, if the accused petitioner, who is a permanent resident under Tamulpur P.S., is released on bail the remaining part of the trial is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh) only** with two

sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Rangia, Kamrup** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of;
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witness, who is acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court;
- iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; and
- iv) That out of the two sureties, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant