

GAHC010090872023



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

Case No. : Bail Appln./1549/2023

MULUKSA DAIMARY @ MULUKSA DAIMARI AND ANR
S/OLATE LOKEN DAIMARY @ LOKEN DAIMARI
R/O VILL- KUKURBHUKIA
P.O. MAZBAT
P.S. MAZBAT
DIST. . UDALGURI (BTAD),
PIN-784507

2: SRI DIJEN DAIMARY @ DIJEN DAIMARI
S/O SRI NOBEN DAIMARI
R/O VILL- KUKURBHUKIA
P.O. MAZBAT
P.S. MAZBAT
DIST. . UDALGURI (BTAD)

PIN-78450

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P THAKURIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

30.05.2023

Heard Mr. P. Thakuria, learned counsel for the accused petitioners as well as

Mr. R.J. Baruah, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioners, namely **1) Muluksa Daimary @Muluksa Daimari and 2) Dijen Daimary@Dijen Daimari** have prayed for grant of bail in connection with **Special (N) Case No.30/2022** arising out of **Dalgaon P.S. Case No.55/2022** under Section **20(b)(ii)(c)** of the NDPS Act.

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

The case relates to recovery and seizure of 50 kg of suspected Ganja from the possession of the accused petitioners.

It is noticed that the accused petitioners have been in judicial custody since 12.02.2022, that is, for 473 days.

A perusal of the case record, it is revealed that a charge under Section 20(b)(ii)(c) of the NDPS Act has been framed against both the accused persons vide order, dated 28.07.2022. There is a list of 8(eight) witnesses in the charge-sheet and out of them 4(four) prosecution witnesses are examined till 21.03.2023. Both the accused persons are permanent residents of village Kukurbhukia under Majbat P.S. in Udalguri (B.T.A.D.) District. The aforesaid four P.Ws are material witnesses besides others.

On consideration of the materials on the case diary and the evidence of the four prosecution witnesses so far examined in the case, this Court is of the considered opinion that despite the bar in Section 37 of the NDPS Act in granting bail involving commercial quantity, the accused persons can be given the liberty of bail on the ground of length of detention only subject to stringent conditions.

Accordingly, it is provided that each of the accused petitioners, 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), Darrang at Mangaldoi** subject to the following conditions-

- i) That the accused petitioners 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 petitioners shall not directly or indirectly make any inducement, threat of promise to any of the listed remaining witnesses who are acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court; and
- iii) That out of the two sureties one surety must be a government servant subject to verification of the relevant documents as to his permanent and temporary address as well as present place of posting with designation etc. to the satisfaction of the learned trial Court.

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