

GAHC010106282023



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

Case No. : Bail Appln./1750/2023

MOZIDUL SK
S/O LATE MONU SK.
R/O VILL- DIPORKUTI
P.S. BILASIPARA
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LD. PP, ASSAM

Advocate for the Petitioner : MR. R GOSWAMI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 18.05.2023

Heard Mr. R. Goswami, learned counsel for the petitioner. Also heard

Mr. Bhaskar Sarma, learned APP appearing for the State.

2. The petitioner, who was arrested on 01.03.2023, is seeking regular bail under section 439 Cr.P.C. in connection with Bilasipara P.S. Case No. 109/2023, under section 20(b)(ii)(B) of the NDPS Act basically on the ground that the petitioner is in custody for more than 60 days, which is the period after which the petitioner would be entitled to default bail under section 167(2)(a)(ii) Cr.P.C.

3. The learned APP has opposed the prayer for bail on the ground that there are sufficient incriminating materials against the petitioner.

4. When the matter was called, the Court had directed the learned APP to obtain instruction as to whether charge-sheet has been submitted.

5. The learned APP has submitted that as per telephonic instruction received by him from the I/O, charge-sheet could not be submitted as the FSL Report regarding the seized contraband is still awaited.

6. In that view of the matter, as the petitioner is in custody for last more than 60 days, the Court is of the considered opinion that the petitioner has become entitled to default bail under section 167(2)(a)(i) Cr.P.C. Hence, the Court is inclined to grant bail to the petitioner, namely, Mozidul Sk. in connection with the aforesaid case on furnishing bail bond of Rs.50,000/- with two solvent sureties of like amount to the satisfaction of the learned Special Judge, NDPS, Bilasipara.

7. Bail is granted on the following conditions:

- I. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
- II. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
- III. The petitioner shall not obstruct the smooth progress of the investigation/trial.
- IV. The petitioner shall not misuse his liberty in any manner.
- V. The petitioner shall appear before the I/O within 10 (ten) days from the date of his release.
- VI. Along with the bail bond, the petitioner shall submit an undertaking that he shall appear before the learned trial Court on each and every date. If the petitioner is unable to appear before the said learned Court on any particular date, he would obtain a previous order from the said learned Court to be absent on the date fixed. However, the petitioner shall ensure that he is duly represented by his learned counsel on such date.
- VII. The petitioner shall submit an undertaking that he would

not dispute his identity or the identity of the witnesses when the trial proceeds while he is represented by his learned counsel.

8. This application stands disposed of.

9. As default bail has been granted to the petitioner on the ground that the FSL Report is not available, the Court is inclined to ask the learned APP to transmit a downloaded copy of this order to the Director General of Police, Assam to bring the order to the notice of the said authority.

JUDGE

Comparing Assistant