

GAHC010111042023



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

Case No. : Bail Appln./1827/2023

ROSHUNUR SK
S/O- LT. ABDUL HAKIM, VILL- CHAGOLIA PT-I, P.S. GOLAKGONJ, DIST.-
DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

27.06.2023

Heard Mr. M.I. Hussain, learned counsel for the accused petitioner. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioner, namely **Roshunur Sk.** has prayed for grant of bail in connection with **Golakganj P.S. Case No.354/2022 (Special Case No.75/2023)** pending in the Court of learned Special Judge, Dhubri) under Section **22(c)** of the NDPS Act.

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

Mr. M.I. Hussain, learned counsel for the accused petitioner, submits that the accused petitioner has been in judicial custody for 281 days despite substantial part of trial of the case is complete. Mr. Hussain further submits that the accused is a permanent resident under Golakganj P.S. and as such, there is no chance of him fleeing the course of justice and also there is no chance of hampering the trial of the case.

Mr. B. Sarma, learned Addl. Public Prosecutor, submits that the case record reveals that out of the 6(six) listed witnesses 3(three) witnesses are already examined among whom two are seizure witnesses and P.W. 2 clearly implicated the accused petitioner with the offence. Therefore, Mr. Sarma submits that in view of the bar under Section 37 of the N.D.P.S. Act, the bail application of the accused petitioner may not be considered favourably.

The case relates to recovery and seizure of 1600 YABA tablets containing Methamphetamine from the dwelling house of the accused petitioner.

It is noticed that the accused has been in judicial custody since 21.09.2022, that is, for 280 days.

A perusal of the case record reveals that a charge under Section 22(c) of the N.D.P.S. Act was framed against the accused vide order, dated 04.04.2023. Thereafter, out of the 6(six) listed prosecution witnesses, 3(three) witnesses were examined till 12.06.2023.

The case diary does not indicate any criminal antecedence of the accused petitioner.

Therefore, despite the bar in granting bail involving commercial quantity of drugs under Section 37 of the N.D.P.S. Act, keeping in consideration of the substantial

progress in trial and the accused being a permanent resident under Golakganj P.S., Assam, this Court is of the opinion that there is no chance of him jumping the course of justice in any way to hamper the smooth and speedy remaining part of trial.

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), Dhubri** 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 any of the remaining prosecution 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 the accused/petitioner shall refrain from committing any offences similar to the one of which he is accused of commission.

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