

GAHC010114482023



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

Case No. : Bail Appln./1863/2023

DWIPEN DAIMARY
S/O- LATE GREENDA DAIMARY, R/O- DHAKAL CHOWK, GOLMA CHARIALI,
P.S. UDALGURI, DIST.- UDALGURI, (B.T.A.D), ASSAM PRESENTLY
RESIDING AT C/O- BHAIKAB CH. NATH, SARMISTHA ROAD, PAMOHI, P.S.
GARCHUK, DIST.- KAMRUP (M), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

22.06.2023

Heard Mr H Ali, learned counsel, appearing on behalf of the petitioner. Also heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner, Sri Dwipen Daimary, who was arrested on 03.06.2021, has preferred this application under Section 439 CrPC, seeking bail in connection with NDPS Case No. 116/2021, under Section 20(C)/8(c) of the NDPS Act, pending before the learned Additional Sessions Judge No. 2, Kamrup (Metro), Guwahati, arising out from Garchuk

PS Case No. 367/2021.

3. Learned counsel for the petitioner has submitted that the accused petitioner was arrested on 03.06.2021. Since then, he has been languishing in jail hazot for the last more than 2 (two) years. Nothing has been recovered from his conscious possession. The witnesses so far examined in the case did not implicate anything against the petitioner. So, he prayed that bail prayer of the petitioner may be considered in view of the period of detention.

4. On the other hand, learned Additional Public Prosecutor opposing to the bail prayer of the petitioner, has submitted that two more witnesses are yet to be examined by the learned trial Court. So, bail may not be granted to the petitioner.

5. I have considered the submissions made by the learned counsel for both the parties. I have also perused the scanned copy of the case record, including the evidence of the witnesses so far recorded by the learned trial Court.

6. It appears that the ganja was recovered from a thatched house, but none of the witnesses have stated anything, as to who was the owner of the said house. It appears from the scanned copy of the LCR that charge was framed on 06.05.2022 and thereafter, three witnesses were examined by the learned trial Court till 04.05.2023, i.e., for last one year.

7. Hon'ble Supreme Court in the case of ***Md Muslim @ Hussain vs. State (NCT of Delhi)***; reported in **2023 Live Law (SC) 260**, observed that-

“laws which impose stringent conditions for grant of bail may be necessary in public interest, yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling.”

8. Under such backdrop, considering the period of detention, the bail prayer of the petitioner is accepted. Accordingly, it is hereby directed that the aforesaid petitioner

shall be released on bail on furnishing bail bond of Rs. 50,000/- with two sureties of the like amount, one of whom must be a Government servant, to the satisfaction of the learned Special Judge, Kamrup (Metro), in connection with the aforesaid case. The bail granted to the petitioner shall be subject to following conditions:-

(a) The petitioner shall not leave the territorial jurisdiction of learned Special Judge, Kamrup (Metro), without prior written permission from him;

(b) The petitioner is directed to appear on each and every date, fixed by the learned trial Court, for hearing.

9. With the aforesaid directions, this Bail Application stands disposed of.

JUDGE

Comparing Assistant