

GAHC010114732023



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

Case No. : Bail Appln./1862/2023

ABDUL SABUR
S/O- ABDUL HAQUE,
VILL- USHARANI,
P.S- NILMBAZAR,
DIST- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

26.06.2023

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

2. By this second petition under Section 439 Cr.P.C., the accused/petitioner, namely **Abdul Sabur** has prayed for grant of bail in connection with **Special (NDPS) Case No. 47/2021** pending in the Court of learned Special Judge,

Karimganj, corresponding to **Nilambazar P.S. Case No.153/2021** under Sections **21(b)/22(c)** of the N.D.P.S. Act, 1985.

3. The earlier bail application of the petitioner being B.A. No.2389/2021 was rejected by this Court vide order, dated 18.07.2022.

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

5. The case relates to recovery and seizure of 161 grams of brown sugar and 60 grams of Yaba tablets containing Methamphetamine from the house of the accused petitioner.

6. It is noticed that the accused petitioner has been in judicial custody since 31.05.2021, that is, for 2 years 27 days.

7. A perusal of the case record, it is revealed that charges under Sections 21(b)/22(c) of the N.D.P.S. Act were framed vide order, dated 10.01.2022 and thereafter, 5(five) prosecution witnesses out of 7(seven) listed witnesses are examined so far till 30.05.2023. On reading of the evidence of the prosecution witnesses so far examined in the case, it is revealed that there is prima facie incriminating material against the accused petitioner subject, of course, to the final outcome on completion of trial of the case. There is no evidence of criminal antecedent of the accused petitioner. He is a permanent resident under Nilambazar P.S., Karimganj. Therefore, this Court finds that if the accused petitioner is enlarged on bail, there is no chance of him getting involved in commission of similar offence during the period of bail and jumping the course of trial of the case, where only two prosecution witnesses are remained to be examined.

8. Accordingly, it is provided that the accused petitioner, named above, shall

be released on bail of **Rs.50,000/- (Rupees Fifty Thousand)** only with two sureties of like amount to the satisfaction of the learned Special Judge (NDPS Act), Karimganj 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;
- 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.

9. 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