

GAHC010119162023



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

Case No. : Bail Appln./1933/2023

HUMARA BEGUM AND ANR
W/O RUHUL ISLAM
R/O VILL- SARAPUR, P.S. BADARPUR, DIST. KARIMGANJ, ASSAM
R/O VILL- SARISA, SILCHAR ROAD,
P.O . SARIASA, P.S. AND DIST. KARIMGANJ, ASSAM, PIN-788713

2: SRI RUHUL ISLAM
S/O ABDUL MUTLIB
R/O VILL- SARAPUR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
R/O VILL- SARISA
SILCHAR ROAD

P.O . SARIASA
P.S. AND DIST. KARIMGANJ
ASSAM
PIN-78871

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

23.08.2023

Heard Mr. H.R. Choudhury, learned counsel for the accused petitioners. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1) Smti. Humara Begum and 2) Sri Ruhul Islam** have prayed for grant of bail in connection with **Special N.D.P.S. Case No.51/2021** pending in the Court of learned Special Judge, Karimganj (corresponding to **Badarpur P.S. Case No.131/2021**) under Sections **22(c)/29** of the N.D.P.S. Act.

The case diary, as called for, is placed before the Court.

The case relates to recovery and seizure of 9600 numbers of suspected narcotic drugs tablets weighing 971 grams from the house of the accused petitioners.

The FSL report shows that the sample of the seized tablets gave positive tests for Methamphetamine.

It is noticed that the accused petitioner No.1 has been in judicial custody since 28.05.2021, that is, for 818 days and the accused petitioner No.2 since 12.01.2022, that is, for 589 days.

Perusal of the case record shows that the learned trial Court framed charges under Sections 22(c)/29 of the NDPS Act against the accused petitioners vide order, dated 27.07.2022. Thereafter, out of the listed 5(five) prosecution witnesses 3(three) PWs are already examined in the case.

This Court is of the opinion that although there is bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity in

view of the mandate under Article 21 of the Constitution of India, if the accused petitioners are released on bail the remaining part of the trial is unlikely to be hampered.

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), Karimganj** 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 or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court;
- iii) That the accused petitioners shall refrain from committing any offences similar to the one of which they are 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.

This disposes of the bail application.

JUDGE

Comparing Assistant