

GAHC010119172023



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

Case No. : Bail Appln./1942/2023

LIYAKAT ALI
S/O LATE HASMAT ALI
R/O PALHAJI, P.S. BARPETA
DIST. BARPETA, ASSAM
REP. BY HANNAN ALI, AGED ABOUT 30 YEARS
SON OF ABDUL SAYED
RESIDENT OF PURAN BIJNI
P.S. AND P.O. BIJNI
DIST. CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N N JHA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

27-06-2023

Heard Mr. N N Jha, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioner, namely, **Liyakat Ali**, is seeking bail in connection with **NDPS Case No. 46/2023** arising out of **Sonapur P.S. Case No. 192/2022** registered under Sections 22(c)/25/29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, wherein, he was arrested on 04.10.2022 and is in custody since then.

Perused the relevant records of NDPS Case No. 46/2023 arising out of Sonapur P.S. Case No. 192/2022.

It is seen that on a special tip off, police personal from the Sonapur Police Station following the due process made a surprise Naka checking on 03.10.2022 in front of Nazirakhat toll gate on NH-37 for vehicle checking and in the evening around 6 PM a Six Wheeler Truck bearing Registration No. NL-01-AF-5885 coming from Nagaon side towards Sonapur was signaled to stop and the said vehicle was stopped at Nazirakhat toll gate. On being enquired, the driver of the said Six Wheeler Truck, namely, Hannan Ali, could not give satisfactory answers and tried to escape from the police clutch and after thorough interrogation the said driver revealed that large quantity of narcotic substances had been stored in the said truck inside the driver's cabin for its transportation to Guwahati that was accordingly seized with (i) 18 Nos. of soap cases containing 18 Nos. of packets suspected to be Heroin containing 12 grams in each packets in total weighing approx. 228 grams. (ii) 4 Nos. of soap cases containing 4 Nos. of packets suspected to be Heroin appears to be damaged total weighing approx. 80 grams. After more interrogation the driver of the said truck, Hannan Ali revealed before the police that receivers of the said narcotic substance were waiting at Khanapara and the police along with the accused moved to Khanapara on being

led by the said accused i.e., the driver of the truck and apprehended the receivers namely, the petitioner, Liyakat Ali and another Anowar Hussain and all of them were produced before the learned CJM, Kamrup (M), Guwahati on 04.10.2022 and those suspected narcotic substances were forwarded to the FSL. Vide report dated 02.01.2023 the FSL clarified that the white powder gave positive test for Heroin with its percentage of 84.09 and the other orange colour powder also gave the positive test for Heroin with its percentage of 91.61.

It is submitted on behalf of the petitioner that the two other accused involved in the case who were arrested along with the petitioner and also charge-sheeted along with the petitioner were already released on bail on 03.04.2023. It is also submitted on behalf of the petitioner that such narcotic substances were not recovered from the possession of the petitioner.

Mr. Goswami, learned APP, Assam placed before the Court that the present petitioner is the main kingpin involved in the illegal supply and business of narcotic substance - Heroin.

But from the records of the case it is seen that the other receiver, Anowar Hussain and the concerned truck driver, Hannan Ali who brought the narcotic substances proved to be Heroin, arrested together with the petitioner and produced before the learned CJM, Kamrup (M), Guwahati on 04.10.2022 were already released on bail on 03.04.2023.

Considering the above and on the basis of parity, the Court is of the view that further custodial detention of the petitioner is not warranted to investigate the said NDPS Case No. 46/2023 arising out of Sonapur P.S. Case No. 192/2022. As such, this bail application of the petitioner in said NDPS Case No. 46/2023 is accepted.

Accordingly, the petitioner, namely, **Liyakat Ali**, be released on bail in said NDPS Case No. 46/2023 arising out of Sonapur P.S. Case No. 192/2022 on furnishing a bail bond of Rs. 1,00,000/- with 2 (two) local sureties of the like amount, one of which shall be a Government Employee (Central and/or State of Assam) to the satisfaction of the learned Special Judge (NDPS) cum Additional Sessions Judge No. 5, Kamrup Metro, Guwahati, on conditions that the petitioner shall – (i) appear before the learned Trial Court, i.e., the Court of the learned Special Judge (NDPS), Kamrup Metro, Guwahati in said NDPS Case No. 46/2023 arising out of Sonapur P.S. Case No. 192/2022 as and when the date(s) of the said case is fixed; (ii) shall appear before the concerned Investigating Officer of said Sonapur P.S. Case No. 192/2022 as and when required

(iii) not directly or indirectly hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer (v) shall not leave the territorial jurisdiction of the learned Special Judge (NDPS) cum Additional Sessions Judge No. 5, Kamrup Metro, Guwahati without obtaining prior written permission from the said authority; failing which, the bail granted to him in the aforesaid NDPS Case No. 46/2023 arising out of Sonapur P.S. Case No. 192/2022 shall stand automatically vacated.

This bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant