

GAHC010122852023



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

Case No. : Bail Appln./1988/2023

ANARJEET KUMAR
S/O SRI RAM PRAVESH, R/O KAITHAULIA, P.O.-CHAMPURA, P.S.-
BIDURPUR, DIST-VAISHALI, BIHAR, PIN-841239

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

30-06-2023

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

By this application filed under Section 439 Cr.P.C., the petitioner, namely, **Anarjeet Kumar**, is seeking bail in connection with Guwahati GRPS Case No. 33/2023 registered under Sections 20(b)(ii)

(C)/29 of the NDPS Act, 1985, in which he was arrested on 23.03.2023 and since then he is in custody.

Petitioner stated that during checking conducted by the personnel of GRP (Government Railway Police), Guwahati along with other police personnel of RPF (Railway Protection Force) in the platform of Kamakhya Railway Station on 21.03.2023 around 05:45 pm, two male persons found carrying something heavy inside their two side bags on suspicious manner and going towards Platform No.1, when they were detained during the checking from their two side bags suspected Ganja wrapped with brown colour plastic tape, where 19 Kgs kept in ten packets was found from the brown colour side bag carried by the petitioner and 11 Kgs kept in six packets found from the blue colour side bag carried by the other namely, Vakil Ray. Those materials were seized in the evening around 06.30 pm on 23.03.2023 itself and they were taken into custody.

According to the petitioner, he is no way connected with the case but even assuming suspected Ganja was recovered from his possession as stated in the FIR, is below the commercial quantity and therefore, the provisions of 20(b)(ii)(C) of the NDPS Act, 1985 is not attracted with regard to the petitioner and on the other hand, Section 29 of the NDPS Act, 1985 is not at all applicable in his case.

Petitioner stated that he is in custody for more than 100 days since 23.03.2023 and since charge sheet has not yet been filed in the case, he is entitled for default bail.

Perused the case diary placed before the Court by Mr. Goswami, learned Additional Public Prosecutor, Assam.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submits that both the accused persons moved together came from Shillong carrying the Ganja and were travelling to Bihar together with the said narcotic substances and they were jointly and consciously possessing 30 Kgs of Ganja which was to their knowledge and their joint possession of Ganja was more than commercial quantity of 20 Kgs and therefore, they have not yet completed the statutory period of detention.

As per the table of Section 2 of the NDPS Act, possession of 20 Kgs and more is commercial quantity and the petitioner individually was found possessing of 19 Kgs of suspected Ganja. Following the law laid down by the Hon'ble Supreme Court in the case of *Amarsingh Ramjibhai Barot Vs. State of Gujarat*, reported in 2005 (7) SCC 550, as the accused persons were found together carrying more than commercial quantity but individually the petitioner herein was found carrying 19 Kgs of

suspected Ganja, which was lesser than the commercial quantity, he cannot be stated to be jointly carried the suspected Ganja more than the commercial quantity.

It is also noticed that the Charge-sheet/Final Report has not yet been filed.

Considering the above, the petitioner is entitled for his default bail in the case in hand. Accordingly, the bail prayer of the petitioner in said Guwahati GRPS Case No. 33/2023 is accepted, however, without entering into the merit of the case.

Accordingly, the petitioner, namely, **Anarjeet Kumar**, be released on bail in said Guwahati GRPS Case No. 33/2023 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 (either Central or State Government), to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati, on conditions that the petitioner, named above, shall — (i) appear before the concerned Investigating Officer of said Guwahati GRPS Case No. 33/2023 as and when he is required for necessary investigation of the case; (ii) not leave the territorial jurisdiction of said Guwahati GRPS, without obtaining prior written permission from the concerned Investigating Officer of Guwahati GRPS Case No. 33/2023; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat to anyone or promise to any person acquainted with the facts of the case so as to dissuade her/him from disclosing such facts to the Court or to any police officer.

Any violation of any of the aforesaid terms and conditions by the petitioner, namely, **Anarjeet Kumar**, the bail granted to him in said Guwahati GRPS Case No. 33/2023 shall stand automatically vacated.

This bail application of the petitioner stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant