

GAHC010124502023



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

**Case No. : Bail Appln./1996/2023**

JAMIL AHMED  
S/O LATE MASADDAR ALI  
VILL- HEMPUR (BITOR BALIA)  
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM  
TO BE REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. M A CHOUDHURY**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**Date : 01.08.2023**

Heard Mr. M.A Choudhury, learned counsel for the accused petitioner as well as Mr. D.P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By this 2<sup>nd</sup> petition under Section 439 Cr.P.C., the accused/petitioner,

namely, **Jamil Ahmed** has prayed for grant of bail in connection with **Special NDPS Case No.120/2021** pending in the Court of **learned Special Judge, Karimganj** arising out of Ratabari P.S. Case No.573/2021 under Section 21(c) of the NDPS Act.

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

It may be mentioned herein that bail application of the present accused petitioner was earlier rejected vide order, dated 26.08.2022 in Bail Application 1760/2022.

The case relates to recovery and seizure of 605 grams (commercial quantity) of heroin from the possession of the accused petitioner and two other co-accused persons.

It is noticed that the accused petitioner has been in judicial custody since 27.11.2021, that is, for 612 days

A perusal of the case record reveals that after completion of investigation police submitted the charge sheet against the accused petitioner and two others. Thereafter, vide order, dated 25.02.2022, charges were framed against the petitioner under Section 21 ( c) of the NDPS Act r/w Section 34 of the IPC.

There is a list of 7(seven) prosecution witnesses in the charge sheet and out of them 3(three) witnesses have been examined. The accused petitioner is a permanent resident under Ratabari Police Station, Dist-Karimganj.

In view of above, this Court finds that further continuation of detention of the accused petitioner in the interest of the remaining part of trial is not required as there is no possibility of him fleeing from the course of justice.

Having heard the learned counsel of both the sides and scrutiny of the

evidence so far recorded in the case and considering the length of detention, this Court is of the considered opinion that despite the bar contained in Section 37 of the NDPS Act in granting bail in the matter involving commercial quantity of drugs, the accused petitioner may be granted the liberty of bail subject to stringent conditions.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh)** only with 02(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 witness 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 similar offences in future of which he is accused of commission; and
- iv) That one of the two sureties must be a government servant subject to verification of the relevant documents and the learned Court below shall return the aforesaid documents after such verification retaining legible scanned copy thereof on record.

Be it mentioned that no observation made in course of this bail order shall have any bearing in the judicial discretion of the learned trial Court.

Breach of any of the above condition shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

**JUDGE**

**Comparing Assistant**