

GAHC010131212023



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

Case No. : Bail Appln./2110/2023

LULUN KUKI
S/O- SEIBOI KUKI, R/O- TUIBUANG, P.S. CHURACHANDPUR, DIST.-
CHURACHANDPUR, MANIPUR

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

11.09.2023

Heard Ms. S.K. Nargis, learned counsel for the accused petitioner. 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 petitioner, namely

Lulun Kuki has prayed for grant of bail in connection with **N.D.P.S. Case No.158/2021** arising out of **Sonapur P.S. Case No.585/2021** under Sections **21(c)/29** of the NDPS Act pending in the Court of learned Addl. Sessions Judge No.2, Kamrup(M), Guwahati.

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

The case relates to recovery and seizure of 1.324 kg of suspected heroin from the possession of 4(four) numbers of FIR named accused persons. During interrogation of the arrested accused persons it was learnt that the seized contraband was supposed to be delivered to the present accused petitioner and another.

The sample of the seized contraband gave positive tests for heroin.

Mr. B.B. Gogoi, learned Addl. Public Prosecutor, has raised objection against grant of bail to the accused petitioner as the matter involves commercial quantity of heroin.

It is noticed that the accused petitioner has been in judicial custody since 29.08.2021, that is, for 744 days.

Perusal of the case record shows that the learned trial Court framed charges under Sections 21(c)/29 of the NDPS Act against the accused petitioner and 5(five) others vide order, dated 09.03.2022. Thereafter, out of the listed 9(nine) prosecution witnesses 3(three) PWs have been examined so far 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 and considering the fact that the accused petitioner has been in judicial custody for

the last 744 days and has been undergoing treatment for his sickness vide the medical documents, if the accused petitioner is released on bail the remaining part of the trial is unlikely to be hampered.

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 two government servant sureties of like amount to the satisfaction of the **learned Special Judge (NDPS), Kamrup(M), Guwahati** 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 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 petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; and
- iv) That the accused/petitioner and his bailors shall produce their Voter Identity Card /Passport /Permanent Residential Certificate, whatever is available at the time of submission of the bail bonds for satisfaction of the learned Court below regarding their identity and address and then return the same retaining photocopy thereof on record. If deemed necessary, the learned Court below shall subject the documents to police verification.

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