

GAHC010131292023



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

Case No. : Bail Appln./2117/2023

AMIR UDDIN
S/O- REHMAN ALI, R/O- VILL- BAIDYANATHPUR, P.S. PATHARKANDI,
DIST.- KARIMGANJ, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 12.10.2023

Heard Mr. L.R. Mazumbdar, learned counsel for the petitioner.
Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the
State.

2. This is an application made under **Section 439 Cr.P.C.**,
seeking bail by the accused-petitioner, namely, **Amir Uddin**, in
connection with **Special(NDPS) Case No. 147/2022 (Patharkandi**

P.S. Case No. 248/2022) pending before the court of learned Special Judge, Karimganj.

3. The learned counsel for the petitioner submits that the accused/petitioner has been detained in custody since 18.11.2022. It is also submitted that charge-sheet has already been submitted but trial has not yet been commenced due to absence of co-accused. It is further submitted that the petitioner has been suffering from spine problem for which surgery is required. Therefore, learned counsel for the petitioner has prayed that considering the period of detention, bail may be granted to the petitioner.

4. In support of his submissions, the learned counsel for the petitioner has placed reliance on the following case laws-

- (i) Nitish Adhikary @ Bapan vs. The State of West Bench reported in 2022 SCC Online SC 2068.
- (ii) Shariful Islam @ Sarif vs. State of West Bengal reported in 2022 SCC Online SC 2069.
- (iii) Litan Miah vs. The State of Assam in Bail Application No. 2149/2023.
- (iv) Abu Sufian vs. The State of Assam in Bail Application No. 1128/2023.

5. On the other hand, learned Addl.P.P. has vehemently opposed in granting bail to the petitioner on the ground that commercial quantity of heroin was seized from the possession of the

accused/petitioner.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of LCR.

7. It appears from the record that the accused was arrested on 18.11.2022 and another accused remained absent before the trial court for which trial has not yet been commenced. It also appears from the seizure list that suspected heroin packets in soap boxes were concealed in one gunny bag but there is no reflection in the seizure list from whom the suspected heroin was seized.

8. A report has been received from the Medical & Health Officer, Central Jail, Silchar which reveals that the petitioner has been suffering from (i) variable degree of disc dessication noted in L4-L5 and L5-S1 level, (2) Disc space reduction in L5-S1, (3) Disc bulge with left paracentral protrusion causing anterior thecal sac indentation resulting in nerve compression and (4) Left lateral recess stenosis. According to jail doctor, the petitioner was followed up subsequently in Ortho OPD on the same day where he was advised for Neurosurgical opinion and if necessary spinal surgery for the same.

9. Considering the medical report as well as the length of detention of the accused-petitioner, this Court is of the view that he may be enlarged on bail.

10. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Special(NDPS) Case No. 147/2022 (Patharkandi P.S. Case No. 248/2022)** pending before

the learned Special Judge, Karimganj, on furnishing bail bond of **Rs.50,000/-** with **two suitable sureties** of the like amount out of which one of the sureties should be a Government employee, to the satisfaction of learned Special Judge, Karimganj.

11. The direction for bail is further subject to the conditions that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Karimganj, without prior written permission from him/her; and

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

12. The learned Special Judge, Karimganj is at liberty to impose any condition(s) as it deems fit and proper at the time of releasing the accused/petitioner on bail to procure his attendance during trial.

13. The observation made above, shall confine for the purpose of disposal of this petition only and shall not in any way affect the proceeding of the learned trial court.

14. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant