

GAHC010138002023



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

Case No. : Bail Appln./2280/2023

INSAN ALI
S/O LT. MAGRUB ALI
VILL- DHALPUR, KIRAKATA
P.S. SIPAJHAR
DIST. DARRANG, ASSAM
PRESENTLY RESIDING AT
FAKIRPARA CHOWK
C/O RIKIBUL DRUGS DISTRIBUTORS,
PO. BALABARI
DIST. DARRANG, ASSAM

VERSUS

NARCOTICS CONTROL BUREAU
REP. BY THE LEARNED STANDING COUNSEL,
NARCOTIC CONTROL BUREAU, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : MR. S C KEYAL, SC, NCB

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 03.08.2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel for the accused petitioner as well as Mr. S.C.Keyal, learned Standing Counsel, NCB.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Insan Ali** has prayed for grant of bail in connection with **NDPS Case No. 102/2019 pending in the learned Additional Sessions Judge No.1, Kamrup (M) (arising out of NCB Crime No.09/2019)** under Sections **21(c) / 29** of the NDPS Act.

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

It is noticed that the accused petitioner has been in judicial custody since 18.09.2020, i.e. for 1049 days.

The case relates to recovery and seizure of 1077 bottles of codeine based Bestorex Cough syrup from one swift Car bearing registration No. AS- AF-4033 near the VIP road, Guwahati.

Mr. S.C.Keyal, learned Standing Counsel, NCB submits that the accused petitioner is involved in another case at Mangaldoi.

A perusal of the case record reveals that the learned Trial Court framed charges under Sections 21 (c)/29 of the N.D.P.S. Act against the accused petitioner and two others, vide order, dated 14.03.2022. Thereafter, the learned Trial Court has examined 2 (two) prosecution witnesses, out of 8 (eight) witnesses.

The accused petitioner is a permanent resident under Sipajhar Police

Station, Dist-Darrang, Assam.

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 the case diary so far the remaining evidence of PWs are concerned as well as 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), Kamrup (M) at 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 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