

GAHC010145252023



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

Case No. : Bail Appln./2338/2023

JAKIR AHMED AND ANR
S/O ABDUL GAFFUR
R/O DABOKA PATHER, WARD NO. 3, P.S. DABAKA
DIST. HOJAI, ASSAM

2: FARUK UDDIN
S/O ABDUL MOTIN
R/O BORJARI MASSGAN
P.S. JAMUNAMUKH
DIST. HOJAI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : F K R AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 08.08.2023

Heard Mr. F.K.R.Ahmed, learned Counsel for the accused petitioners as well as

Mr. B.Sarma, learned Additional Public Prosecutor.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Jakir Ahmed and 2. Faruk Uddin** have prayed for grant of bail in connection with **Special (NDPS) Case No. 83 (H)/2022** pending in the court of learned Special Judge, Hojai (arising out of Dabaka PS Case No.139/2022) under Sections **22(b)/24/29** subsequently added Sections 22(c)/29 of the NDPS Act r/w Section 34 of the IPC.

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

It is noticed that the accused petitioners have been in judicial custody since 24.05.2022, i.e. for 444 days.

The case relates to recovery and seizure of 66 Grams of suspected brown sugar from the possession of the accused petitioners.

A perusal of the case record reveals that the learned Trial Court framed charges under Sections 22 (C) /29 of the N.D.P.S. Act r/w Section 34 of the IPC against the accused petitioners and another, vide order, dated 09.01.2023. Thereafter, the learned Trial Court has examined 5 (five) prosecution witnesses, out of 7 (seven) witnesses.

The accused petitioner No. 1, Jakir Ahmed is a permanent resident under Dabaka Police Station, Dist-Hojai and the accused petitioner No. 2 is a permanent resident of Jamunamukh police Station, Dist- Hojai, Assam.

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

Having considered the evidence so far recorded in the case and so far the remaining evidence of PWs are concerned as well as considering the length of detention, the accused petitioners may be granted the liberty of bail subject to

stringent conditions.

Accordingly, it is provided that the accused petitioners, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh) each** only with 02(two) sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Hojai** subject to the following conditions:

- i) That the accused petitioners 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 petitioners 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 petitioners shall refrain from committing any similar offences in future of which they are 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