

GAHC010146092023



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

Case No. : Bail Appln./2453/2023

ABDUL SALAM AND ANR
S/O ABDUL RASHID
R/O VILL- NAHARGAON
P.S. DOBOKA
DIST. HOJAI, ASSAM
(INDIA), 782441.

2: IIAJUL HOQUE
S/O MUHAR ALI
R/O DHANUHARA BASTI
P.S. HOJAI
DIST. HOJAI
ASSAM
(INDIA
78244

VERSUS

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

Advocate for the Petitioner : MR S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.08.2023

Heard Mr. S. Ahmed, learned counsel for the accused petitioners. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioners, namely **1) Abdul Salam and 2) Ijajul Hoque** have prayed for grant of bail in connection with **NDPS Case No.65(H)/2022 (corresponding to Hojai P.S. Case No.134/2022)** under Section **21(c)** of the NDPS Act, 1985.

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

The case relates to recovery and seizure of 2.478 kgs. of suspected brown sugar with plastic soap box from the possession of the accused petitioners.

It is noticed that the accused petitioners have been under judicial custody since 27.03.2022, that is, for 513 days.

A perusal of the case record, it is revealed that charges under Sections 21(c)/29 of the N.D.P.S. Act read with Section 34 of the IPC were framed against the accused petitioners vide order, dated 16.11.2022. Thereafter, out of the 7(seven) listed prosecution witnesses 5(five) P.Ws have already been examined in the case.

This Court is of the opinion that although there is a bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity, if the accused petitioners, who are permanent residents of Hojai district, are released on bail, the ongoing trial of the case is unlikely to be hampered.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh)** only with 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 the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court;
- iii) That the accused petitioners shall refrain from committing any offences similar to the one of which they are accused; and
- iv) That out of the two sureties, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

This disposes of the bail application.

JUDGE

Comparing Assistant