

GAHC010149342023



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

Case No. : Bail Appln./2358/2023

JAY KUMAR CHAUHAN @ JOYKUMAR CHOUHAN AND ANR
SON OF LATE SHIBAPRACHAN CHOUHAN,
RESIDENT OF VILLAGE KISHAN BASTI,
P.O.- JENKHA, P.S.- KHERONI,
DISTRICT- WEST KARBI ANGLONG,
ASSAM, PIN- 782448.

2: BHUWAL CHAUHAN
SON OF BALIRAM CHAUHAN

RESIDENT OF VILLAGE KISHAN BASTI

P.O.- JENKHA
P.S.- KHERONI

DISTRICT- WEST KARBI ANGLONG

ASSAM
PIN- 782448

VERSUS

UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL OF NARCOTICS CONTROL
BUREAU, GUWAHATI ZONAL UNIT,
KHANAPARA, GUWAHATI-22.

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : SC, NCB

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

18.07.2023

Heard Mr. R.S. Chouhan, learned counsel for the accused petitioners. Also heard Mr. S.C. Keyal, learned Standing Counsel, NCB.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1) Jay Kumar Chauhan @Joykumar Chouhan and 2) Bhuwal Chauhan** have prayed for grant of bail in connection with **NCB Crime No. 02/2023** under Section **8(c)** read with Sections **20(b)(ii)(c)/29** of the N.D.P.S. Act.

The status report of investigation is received.

The case relates to recovery and seizure of 570.807 kg of ganja from a truck bearing Registration No. AS-01/NC-5201 which amounts to commercial quantity under the N.D.P.S. Act.

Mr. R.S. Chouhan, learned counsel for the accused petitioners, submits that the registered owner of the seized vehicle (truck) bearing Registration No. AS-01/NC-5201 is one Jay Prakash Chouhan who has not been arrested in connection with the case and the present accused petitioner No. 1 is the owner of a tent house at Kishan Basti under Karbi Anglong district and the accused petitioner No. 2 was the driver of the said vehicle. According to Mr. Chouhan, the accused petitioner No. 1 on request of said Jay Prakash Chouhan accompanied the accused petitioner No.2 to Guwahati to bring some articles for his wedding ceremony, but on the way the N.C.B. intercepted the vehicle and recovered the contraband from it which was beyond the knowledge of the accused petitioner No. 1. On the other hand, Mr. Chouhan submits, the accused

petitioner No. 2 had also no knowledge about the contraband. Therefore, Mr. Chouhan, learned counsel, submits that subject to any condition(s) the bail application of the accused petitioner may be accepted.

Per contra, Mr. S.C. Keyal, learned Standing Counsel for N.C.B., submits that contraband ganja amounting to 570.807 kg was seized from the truck which was driven by the accused petitioner No. 2 and accused petitioner No.1 was with him at the time of recovery. Mr. Keyal further submits that during investigation it has been disclosed that they were transporting the contraband for delivery to one namely, Munnu at Mashad, Ara, Bihar as they did earlier on 19.01.2023. The investigation further reveals that both the accused petitioners had no valid documents for any legal possession of the seized contraband. Mr. Keyal also submits that the investigation reveals further clues regarding involvement of a racket of persons in trafficking of narcotic drugs namely, Ganja. Mr. Keyal submits that investigation will be completed within the prescribed period of limitation and till then the bail application of the accused petitioners may not be considered favourably as the same may jeopardise a fair and speedy investigation into the case.

It is noticed that the accused petitioners have been in judicial custody since 17.02.2023, that is, for 152 days.

Upon consideration of the detailed status report of investigation in the case submitted by the respondent NCB, it noticed that there is abundance of prima facie incriminating material against the accused petitioners. There is prima facie material to show that the accused petitioners jointly in connivance with others carried the contraband ganja amounting to commercial quantity without legal authority and as such, this Court is of the opinion that in view of the bar contained in Section 37 of the N.D.P.S. Act, the bail application of the

accused petitioners cannot be considered favourably.

Accordingly, the bail application of the accused petitioners stands **rejected**.

This disposes of the bail application.

JUDGE

Comparing Assistant