

GAHC010151942023



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

Case No. : Bail Appln./2429/2023

Z NAGAHU SUMI
S/O ZUTOI SUMI
R/O VILL- LITSAMI, HILL- 129,
P.S. AKULTO
P.O. AKULTO,
DIST. ZUNHEBOTO
NAGALAND, PIN-798620

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

30.11.2023

Heard Mr M H Choudhury, learned counsel for the petitioner, Z Nagaho Sumi.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail as he is in jail since 11.04.2023, in connection with GHY GRPS Case No. 44/2023, under Sections 20(b)(ii)(C)/29 of the NDPS Act.

3. It is submitted on behalf of the petitioner that charge sheet has been laid against the petitioner on 30.06.2023, but not a single witness has been examined nor charge has been framed against the petitioner. The trial has not commenced as the co-accused is absconding. The petitioner's right to liberty has been curtailed as he has been behind bars due to the absence of the co-accused and as the proceeding is being delayed. The petitioner has prayed for bail, as he is languishing in jail for 233 days.

4. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam, who has raised serious objection, stating that the petitioner was caught red-handed with 27 kgs of ganja. The petitioner is not a local resident and he is a flight risk. The co-accused has already escaped. The trial will be adversely affected if the petitioner is admitted to bail. The embargo under Section 37 of the NDPS Act is a fetter considering the import of the Section under which the petitioner is booked.

5. I have considered the submissions at the Bar with circumspection.

6. The scanned copies of the LCR reveals that the petitioner is in the jail for 233 days. Charge has not been framed despite the fact that the charge sheet has been laid on 30.06.2023. Co-accused is absconding and trial is yet to commence. The petitioner has pledged to cooperate with the trial. I have considered the circumstances of this case at hand. It appears that trial is proceeding with a slow pace. The petitioner is willing to abide by any conditions if imposed upon him.

8. Considering all aspects, the petitioner is enlarged on bail of Rs. 1,00,000/- (Rupees One Lac) only, with two local sureties of the like amount, to the satisfaction of the learned trial Court, under the conditions that-

- i) the petitioner shall cooperate with the trial,
- ii) the petitioner shall not tamper with the evidence,

iii) the petitioner shall refrain from such activities with which he is alleged.

If any of the bail conditions are violated, the petitioner shall be forwarded to custody and bail order shall stand cancelled.

9. Bail Application stands disposed of.

JUDGE

Comparing Assistant