

GAHC010152202023



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

Case No. : Bail Appln./2431/2023

MAFIZUR RAHMAN
S/O LATE MAHAMAD ALI
R/O VILL- KASUWA
P.O. JURIRPAR, P.S. KASUWA
DIST. HOJAI, ASSAM
PIN-782426

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. S ALOM
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

26.09.2023

Heard Md. S. Alom, learned counsel for the accused petitioner. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Mafizur Rahman** has prayed for grant of bail in connection with **N.D.P.S. Case No.96/2022** arising out of

Jamunamukh P.S. Case No.53/2022 under Section **21(c)** of the N.D.P.S. Act.

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

The case relates to recovery and seizure of 110 numbers of suspected Codein cough syrup bottle and 1296 numbers of suspected to be Narcotic Drugs Capsules (Tablet).

The FSL report shows that the sample of the seized articles tests for Codein (present as Codein Phosphate) and also gave positive for Tramadol and the amount of Tramadol per capsule was found to be 48.5mg.

It is noticed that the accused petitioner has been in judicial custody since 30.11.2021, that is, for 449 days.

Perusal of the case record shows that charge was framed by the learned trial Court under Section 21(c)/29 of the NDPS Act against the accused petitioner vide order, dated 01.03.2023. Thereafter, out of the listed 6(six) prosecution witnesses 4(four) PWs are already examined in the case.

This Court is of the opinion that although there is bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity in view of the mandate under Article 21 of the Constitution of India, if the accused petitioner, who is a permanent resident under Kasuwa P.S., District Hojai, is released on bail, there is no chance of her jumping the trial of the case.

For the above stated reasons, it is provided that the accused petitioner, 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), Sankardev Nagar, Hojai** 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 the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court;
- iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; 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;

Breach of any of the above conditions shall render cancellation of bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant