

GAHC010153562023



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

Case No. : Bail Appln./2480/2023

MISTAL HOQUE AND 2 ORS
S/O ABDUL AZIZ
VILL- KUCHNIMARA
P.O. MANKACHAR
P.S. MANKACHAR
DIST. SOUTH SALMARA, ASSAM
PIN-783131

2: ABDUL ADUT
S/O ASAD ALI
VILL- JHAWDANGA PART-III
P.O. MANKACHAR
P.S. MANKACHAR
DIST. SOUTH SALMARA
ASSAM
PIN-783131

3: EBAT HUSSAIN @ MD. IBAT HUSSAIN
S/O ABUL HOSEN
VILL- JHAWDANGA PART-III (KESHARVITA)
P.O. MANKACHAR
P.S. MANKACHAR
DIST. SOUTH SALMARA
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

25.08.2023

Heard Mr. B.C. Das, learned Sr. Counsel appearing for the accused petitioners. 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 petitioners, namely **1) Mistal Hoque 2) Abdul Adut and 3) Ebat Hussain @ Md. Ibat Hussain** has prayed for grant of bail in connection with **Jalukbari P.S. Case No.269/2023** under Sections **21(c)/29** of the NDPS Act.

The case diary, as called for, is placed before the Court.

Mr. B.C. Das, learned Sr. Counsel appearing for the accused petitioners, submits that the accused petitioner No.1 is a driver by profession, who has been driving the car bearing registration No. AS 19A 5020 and accused petitioner Nos. 2 and 3 are cultivators. Mr. Das also submits that one Haren Boro is the registered owner of the said car and one Abdul Latif is the present owner of the car. Mr. Das further submits that on the day of incident, i.e., on 05.05.2023, the petitioner No.2 hired the vehicle of the petitioner No.1 to come from Mankachar to Guwahati to purchase some parts of a tractor and accordingly, both the petitioner No.1 and 2 reached Jalukbari at about 7 p.m. Mr. Das submits that thereafter, they proceeded towards Garchuk to meet the accused petitioner No.3 at S.K. Hotel, but, suddenly, the police arrested them from the hotel merely on

suspicion. According to Mr. Das, no contraband item was recovered and seized from the possession of the accused petitioners and they were arrested merely on the basis of the statement of the prime accused Matibar Bhuyan from whom the tablets were recovered and seized.

Mr. B. Sarma, learned Addl. Public Prosecutor, submits that the sample of the seized Yaba tablets numbering 9,200 has been found containing Methamphetamine during chemical analysis by the F.S.L., Assam and as such, the same amounted to commercial quantity under the N.D.P.S. Act. Mr. Sarma further submits that the case diary reveals sufficient incriminating material against the accused petitioners and therefore, in view the bar contained in Section 37 of the N.D.P.S. Act their bail application may be rejected.

The case relates to recovery and seizure of Yaba tablets numbering 9,200 from a bus bearing registration No. AS 01 QC 2372.

It is noticed that the accused petitioners have been in judicial custody since 06.05.2023, that is, 112 days.

The F.S.L. report shows that the sample of seized tablets gave positive tests for Methamphetamine.

A perusal of the case diary as a whole prima facie reveals that the accused petitioners had been involved in abatement and criminal conspiracy in connivance with co-accused persons in trafficking and selling of contraband drugs in Guwahati city area. They had brought the seized drugs with intent to sell the same in Guwahati. Therefore, this Court is of the opinion that there are reasonable grounds for believing that they are guilty of the offences alleged and as such, they are likely to commit similar offence while on bail. The investigation

is yet to be completed.

Accordingly, in view of the bar contained in Section 37 of the N.D.P.S. Act and the reasons cited above, the bail application of the accused petitioners stands **rejected**.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant