

GAHC010153892023



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

Case No. : Bail Appln./2456/2023

KAUSHLENDRA KUMAR
S/O PARASH SAH R/O VILL. KORIGAWA MHAWAL P.S BARUAJ DIST.
MUZAFFARPUR BIHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.08.2023

Heard Mr. N. Mahajan, learned counsel for the accused petitioner. Also heard Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioner, namely

Kaushlendra Kumar has prayed for grant of bail in connection with **NDPS Case No.62/2021** under Section **20(b)(ii)(c)** of the N.D.P.S. Act pending in the Court of learned Special Judge (NDPS Act), Karbi Anglong, Diphu (corresponding to **G.R. Case No.337/2021**) arising out of **Dillai P.S. Case No.34/2021**.

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

The case relates to recovery and seizure of 20.850 kgs. of suspected ganja from a truck bearing registration No. AS 01CC 6503 driven by the accused petitioner.

It is noticed that the accused petitioner has been under judicial custody since 12.07.2021, that is, for 771 days.

A perusal of the case record, it is revealed that charge under Section 20(b)(ii)(c) of the N.D.P.S. Act was framed against the accused petitioner vide order, dated 23.12.2021. Thereafter, out of the 11(eleven) listed prosecution witnesses 7(seven) 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 petitioner, who has been under judicial custody for the last 771 days, is released on bail, the ongoing trial of the case is unlikely to be hampered.

Accordingly, 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), Karbi Anglong, Diphu** 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 them 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; 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