

GAHC010154652022



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

Case No. : Bail Appln./1894/2022

ABHINAV JADON
SON OF SHRI RAMVIR SINGH
R/O HOUSE NO. G-516, TRANS YAMUNA COLONY, PHASE-2,
NEAR MASJID, RAMBAGH, P.O. YAMUNA BRIDGE, P.S. EATMADULLAH,
AGRA UTTAR PRADESH-282006

VERSUS

THE UNION OF INDIA
REP. BY STANDING COUNSEL,
NARCOTIC CONROL BUREAU AT GUWAHATI.

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 09-02-2023

Heard Mr. D. Borah, learned counsel for the petitioner as well as Ms. P. Das, learned counsel appearing on behalf of Mr. S.C. Keyal, learned standing counsel for the NCB.

2. The petitioner, namely, Abhinav Jadon, who was arrested on 10.02.2022 in connection with NDPS P.S. case no.21/2022 under section 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned counsel for the petitioner has submitted that the seizure of the consignment of the alleged narcotic drugs was not in accordance with the procedure prescribed for search and seizure under section 42 of the NDPS Act. It is also submitted that the petitioner has been made an accused on the basis of the statement of the co-accused which is not permissible under the clause of Supreme Court of India in the case of *Tofan Singh Vs. State of Tamil Nadu, 2021 (4) SCC 1*. It is also submitted that the petitioner was working as an Assistant Supervisor in Safe Express Pvt. Ltd. and that he is not involved in the transportation of Codeine based cough syrup.

4. In support of his submission that the seizure was not made from the petitioner, the learned counsel for the petitioner has referred to the case of *Sanjeev Chandra Agarwal and another Vs. Union of India, 2021 SCC Online 1268*.

5. The learned counsel for the respondent has opposed the prayer for bail.

6. On a perusal of the scanned copy of the case records received from

the Court of learned Special Judge, Kamrup Amingaon, it appears that there are sufficient incriminating materials against the petitioner in respect of his involvement in the transportation of 3280 bottles of Codeine based cough syrup, which was seized from the warehouse of another courier service, where the petitioner is not in service.

7. In the final complaint filed by the NCB, in special NDPS case no.21/2022, the nature of involvement of the petitioner is specifically narrated in paragraphs 43 to 49 thereof. The Court does not find it necessary to reiterate the allegations contained against the petitioner in the final complaint, only to burden this order with such details.

8. As the Court finds sufficient incriminating materials against the petitioner in the complaint petition, the Court does not find it to be a fit case to release the petitioner, namely, Abhinav Jadon on bail.

9. In so far as the case of *Sanjeev Chandra Agarwal (supra)* cited by the learned counsel for the petitioner, it appears that the Supreme Court of India had set aside the order of the High Court by which directions were issued for framing charges under section 27A and 29A of the NDPS Act. In the present case in hand, there is no such direction from the High Court to the learned trial Court for framing charges under specific sections. Therefore, the said case cited by the learned counsel for the petitioner is not applicable to the facts and circumstances in the present case.

10. The learned counsel for the petitioner has also referred to the medical

documents of his ailing mother which has been filed along with an additional affidavit. In view of the nature of punishment as prescribed for offences under section 21(1) and 29 of the NDPS Act, medical condition of his mother would not be ground to release the petitioner, namely, Abhinav Jadon on bail.

11. Accordingly, the prayer for bail is rejected at this stage.

12. The Registry shall not issue copies (certified or uncertified) from the scanned copy of the LCR.

JUDGE

Comparing Assistant