

GAHC010155532023



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

Case No. : Bail Appln./2501/2023

NABIRAJ HUSSAIN
S/O LATE MAFIDUL ISLAM
R/O BHUTNATH
P.S. BHARALUMUKH
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A RAZZAK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.08.2023

Heard Mr. S. Nawaz, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Nabiraj Hussain,

who is detained behind the bar since 22.06.2023 (50 days) in connection with Satgaon P. S. Case No. 114/2023 under Sections 22(b) of the NDPS Act.

The accusation against the present petitioner is that on 20.06.2023, one Nayanjit Singha, SI of Police lodged an FIR before the Officer-in-Charge of Satgaon Police Station, *inter-alia*, alleging that on receipt of secret information through reliable sources that one Abdul Ali is engaged in business of illicit drug and has concealed heroine in his house, a search operation was conducted and 82 grams of suspected heroines was recovered from his possession.

On receipt of the said FIR, Satgaon P. S. Case No. 114/2023 was registered. In the course of investigation of the said case, the present petitioner namely, Nabiraj Hussain was also arrested with allegation that he was possessing 20 grams of heroin.

Learned counsel for the petitioner has submitted that the other two accused were arrested during the course of investigation namely, (1) M. Rajesh Singh and (2) Anowara Begum, have already been granted bail by the learned Special Judge, Kamrup (M).

It is also submitted that 16 grams of suspected heroin was recovered from co-accused, M. Rajesh Singh and 85 of suspected heroin was recovered from Anowara Begum Begum.

Learned counsel for the petitioner has submitted that on the ground of long detention of 50 days as well as on the ground of parity with other co-accused, the present petitioner may allowed to go on bail.

On the other hand, learned Additional Public Prosecutor submits there are incriminating materials against the present petitioner and he is a drug peddler and opposes the bail on that ground, however, he also submits that the

investigation is pending only for receipt of FSL Report.

Considering the submission made by learned counsel for the petitioner and materials in the case diary as well as period of detention already undergone by the present petitioner and progress made in the investigation, this Court is of considered opinion that further custodial detention of the present petitioner may not be necessary for fair completion of the investigation of Satgaon P. S. Case No. 114/2023.

In view of the above, the petitioner, namely, Nabiraj Hussain is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the learned Special Judge, Kamrup (M) with the following conditions that:

1. That the petitioner shall co-operate with the Investigating Officer of Satgaon P. S. Case No. 114/2023.
2. That the petitioner shall not influence the witnesses of the case or try to tamper any evidence involved in this case.
3. That the petitioner shall not indulge himself with any of the offence similar to what he has been charged with in this case.

With the above information, this instant bail application is accordingly disposed of.

JUDGE

Comparing Assistant