

GAHC010165332023



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

Case No. : Bail Appln./2667/2023

DHARMENDRA SAIKIA
S/O SRI NIRMAL SAIKIA
VILL- RANGAJAN, SIMOLUGURI , P.S. GOHPUR
DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY ITS PP, ASSAM

Advocate for the Petitioner : MR. L GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

24.08.2023.

Heard Mr. L. Gogoi, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing for the respondent State.

2. The bail application under Section 439 of the CrPC has been preferred by

the petitioner, namely, Sri Dharmendra Saikia seeking bail in connection with Gohpur P.S. Case No. 128/2023, under Section 20(b)(ii)(B) of the NDPS Act. The petitioner was arrested on 08.07.2023 and since then he has been in custody.

3. By an FIR dated 08.07.2023, the informant who is a Police Officer went to the house of the petitioner upon receipt of secret information. Upon a search conducted in his house, suspected Cannabis was recovered, which when weighed in a Digital machine was found to be 2.41 Kg with plastic packets and 1.980 Kg, without plastic packets. Said Cannabis were seized in presence of the witnesses in the place of occurrence and the accused person along with the suspected Cannabis was brought to the police station. Thereafter sample of the Cannabis was sent for FSL report, however the FSL report is still awaited.

4. Learned counsel for the petitioner Mr. L. Gogoi submits that the petitioner has been in custody from the date of his arrest which is 47 days. It is also submitted by Mr. Gogoi that the case is registered under Section 20(b)(ii)(B) of the NDPS Act and the petitioner is cooperating with the police and his statements have been recorded. It is therefore submitted that his further custodial detention is not necessary.

5. This Court earlier called for the case diary. The case diary as called for has been produced before the Court by Mr. B. Sarma, learned Addl. P.P., Assam. The learned Addl. P.P., Assam submits that the statement of the petitioner has been recorded but the matter is still under investigation and FSL report is still awaited.

6. Learned counsels for the parties have been heard and the case diary which has been produced, is perused.

7. Upon due perusal of the case diary it is seen that investigation has

progressed and the statement of the accused has been recorded.

8. Although the investigation is being carried on but the charge sheet has not yet been filed. The sample of contraband substance seized, has been sent to FSL but the report is still awaited. No materials are seen from the case diary to suggest that further custodial detention of the petitioner is necessary for investigation of the case.

9. Considering the length of detention undergone as well as upon due perusal of the case diary as no materials are seen in the case diary which suggests further detention of the petitioner is necessary for the purposes of investigation, the prayer for bail is granted.

10. Accordingly, the petitioner, named above, is directed to be released on bail forthwith subject to executing a bail bond of Rs.50,000/- (Rupees fifty thousands) only, with one local surety of like amount to the satisfaction of Special Judge, Biswanath. The petitioner will continue to appear before the I.O. as and when necessary and shall cooperate with the I.O. till completion of the investigation. He shall not move out of the jurisdiction of competent Court, without written order.

11. The bail petition is accordingly allowed.

12. The case diary be returned.

JUDGE

Comparing Assistant