

GAHC010165452023



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

Case No. : Bail Appln./2685/2023

RUPJAN BIBI AND ANR
W/O SIAB UDDIN
VILL- HATKHOLA
P.S. PATHARKANDI
DIST. KARIMGANJ
ASSAM

2: IMRAN HUSSAIN
S/OLT. ABDUL HUJIB
R/ SUJJYANAGAR
P.S. PATHARKANDI
DIST. KARIMGANJ
ASSAM
VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP
ASSAM

Advocate for : MR. A AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

25.08.2023

Heard Mr. A. Ahmed, learned counsel for the accused petitioners. Also

heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1) Rupjan Bibi and 2) Imran Hussain** have prayed for grant of bail in connection with **Special (N.D.P.S.) Case No.27/2023** pending in the Court of learned Special Judge, Karimganj (corresponding to **Patherkandi P.S. Case No.108 /2023**) under Sections **21(b)/25/29** of the N.D.P.S. Act.

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

The case relates to recovery and seizure of 118 grams of suspected heroin from the house of the petitioner No.1 and from the possession of the petitioner No.2 and another.

The sample of the seized substance gave positive tests for heroin vide the F.S.L report, dated 21.06.2023.

It is noticed that the accused petitioners have been in judicial custody since 28.03.2023, that is, for 151 days.

Perusal of the case record along with the case diary shows that the seized heroin was being 118 grams the same falls within the category of intermediate quantity under the N.D.P.S. Act and as such, the bar contained in Section 37 of the N.D.P.S. Act is not applicable to the instant case.

The case record further shows that the case is presently pending for appearance of co-accused person on 16.09.2023. The charge-sheet under Sections 21(b)/25/29 of the N.D.P.S. Act was filed on 29.05.2023. The charges are yet to be framed. The accused petitioners are residents under Patherkandi P.S., Assam.

For the above stated reasons, more particularly, the length of detention (151 days) and the case being related to intermediate quantity under the N.D.P.S. Act, this Court finds that further continuation of detention of the accused petitioners for the purpose of trial of the case which is yet to commence is not necessary.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand) only** with two sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Karimganj** subject to the following conditions-

- i) That the accused petitioners 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 petitioners shall not directly or indirectly make any inducement, threat or promise to the listed prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court; and
- iii) That the accused petitioners shall refrain from committing any offences similar to the one of which they are accused of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant