

GAHC010171412022



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

Case No. : Bail Appln./2145/2022

SAIMON DEB BARMA @ SAIMON DEBBARMA
S/O AJIT DEBBARMA @ AJIT DEB BARMA
VILL- AMPURA
P.S. AND DIST. KHOWAI
STATE- TRIPURA

VERSUS

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

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 21.02.2023

Heard Mr. M.A. Choudhury, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned APP appearing for the State.

2. The petitioner, namely, Saimon Deb Barma @ Saimon Debbarma,

who was arrested on 24.10.2021, is seeking regular bail under section 439 Cr.P.C. in connection with Special NDPS Case No. 103/2021, pending before the Court of learned Special Judge, Karimganj, arising out of Bazaricherra P.S. Case No. 198/2021, under sections 20(C)/29 of the NDPS Act.

3. The learned counsel for the petitioner has submitted that as per information received by him, although charge-sheet was submitted on 28.12.2021, only 1 witness has been examined till date. It is submitted that there is no chance of early conclusion of trial.

4. The learned APP has opposed the prayer for bail on the ground that 413 kgs of contraband cannabis (ganja) was seized from the truck in which the petitioner was allegedly working as a day labourer/handyman.

5. Perused status report of trial sent by the learned Additional Sessions Judge, Karimganj on 09.11.2022, wherein it has been mentioned that the case was at the stage of evidence as on 13.09.2022 and no evidence was recorded due to non-service of summons to the PWs.

6. On perusal of the scanned copy of the case records, it appear that in the checking, which was being done on the National Highway, a truck bearing registration no.AS-01-HC-9375, coming from Tripura was intercepted and 413 kgs of cannabis (ganja) was recovered from the truck and the petitioner was one of the occupants of the said truck.

7. The learned counsel for the petitioner has submitted that the petitioner was in the truck for unloading the particulars. It appears from the FSL Report that the suspected seized articles were found to contain cannabis (ganja).

8. Accordingly, the Court is of the considered opinion that the

petitioner was in conscious possession of the contraband narcotics and therefore, in view of the decision of the Supreme Court of India in the case of *Satyendra Kumar Antil Vs. Central Bureau of Investigation, (2012) 1 SCC 40*, wherein observation has been made with regard to detention of undertrials/accused suspected of committing offence under section 21(c) of the NDPS Act, the Court is of the considered opinion that in view of the evidence available against the petitioner, the Court is unable to record its satisfaction that the petitioner is not guilty of the offence and if granted bail, the petitioner will not repeat the same offence.

9. Accordingly, the prayer for bail is rejected as the satisfaction in terms of section 37 of the NDPS Act cannot be recorded.

10. Before parting with the records, the Court is inclined to take note of the fact that the petitioner is in custody for last 485 days, and although charge-sheet was submitted on 28.12.2021 and charges was framed only on 05.07.2022. As per the statement made at the Bar by the learned counsel for the petitioner, only 1 PW has been examined. Therefore, this is an appropriate case for directing expeditious trial. Accordingly, the learned Special Judge, NDPS, Karimganj-cum-Additional Sessions Judge, Karimganj who is in seisin of the matter shall take immediate steps for expeditious trial of this case, if required by taking up day to day hearing.

11. In this regard, as only 7 PWs are named in the charge-sheet, it would be open to the learned trial Court to take appropriate assistance from the police for timely service of summons on the PWs to appear and to give evidence. The Court hopes that the learned trial Court shall make an endeavour to conclude the recording of evidence of the PWs be within an outer period of 4 (four) months from the date of receipt of certified copy of this order.

12. With the aforesaid observation, this bail application stands closed.
13. Registry shall not issue certified/un-certified copy of the case records received from the learned trial Court.

JUDGE

Comparing Assistant