

GAHC010176442023



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

Case No. : Bail Appln./2821/2023

PENJON DAIMARI
S/O- LATE UMESH DAIMARI, R/O- VILL.- KAHIBARI BEKIGAON, P.S. AND
DIST. UDALGURI, PIN- 784509, BTAD, ASSAM

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NCB, GUWAHATI, ASSAM

Advocate for the Petitioner : MR. A PAUL

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 11.09.2023

Heard Mr. A. Paul, learned counsel appearing for the accused petitioner as well as Mr. S. C. Keyal, learned Standing Counsel, NCB.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Penjon Daimari**, has prayed for grant of bail in connection with **NDPS Case No. 01/2020 (NCB Case No. 11/2019)** under Sections **8(C)/20(b)(ii)(C)/29** of the NDPS Act (G.R. Case No. 104/2019).

The scanned copy of the case record along with the case diary, as called for, is

placed before the Court.

It is noticed that the accused petitioner has been in judicial custody since 23.08.2019, i.e. for 1480 days.

The case relates to recovery and seizure of cannabis (*ganja*), weighing 78.6 kgs, from the possession of the accused petitioner and one another.

A perusal of the case record reveals that the learned Trial Court framed charge under Section 20(b)(ii)(C) of the N.D.P.S. Act against all the accused persons for illegally possessing 78.6 kgs of cannabis. Thereafter, the learned Trial Court has examined five prosecution witnesses, out of listed nine witnesses. The case record, as a whole, reveals that the contraband '*ganja*' amounts to commercial quantity under the N.D.P.S. Act and, as stated above, the accused petitioner is in judicial custody for 1480 days.

Considering entire aspects of the matter, this Court is of the opinion that although there is bar under Section 37 of the NDPS Act in granting bail to the accused in matters involving commercial quantity in view of the mandate under Article 21 of the Constitution of India, if the accused petitioner, who is a resident under Udalguri P.S., is released on bail, the remaining part of the trial is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 1 Lakh** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), Kamrup, Rangia** subject to the following conditions-

- i) That the accused petitioner 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; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution

witnesses; and

- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission; and
- iv) That out of the two sureties, one must be a government servant, subject to verification of the relevant documents, if deemed necessary and after such verification, the learned trial Court shall return the original documents retaining legible scanned copy thereof on record for future reference.

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

This disposes of the bail application.

JUDGE

Comparing Assistant