

GAHC010181912023



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

**Case No. : Bail Appln./2901/2023**

HUSSAIN AHMED  
S/O- HARIS ALI, R/O- VILL.- KAMALATILLA, P.S. PATHERKANDI, DIST.  
KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM  
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. M A CHOUDHURY**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**16.10.2023**

Heard Mr. M.A. Choudhury, learned counsel for the accused petitioner. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this second petition under Section 439 Cr.P.C., the accused petitioner,

namely **Hussain Ahmed** has prayed for grant of bail in connection with **Special (N.D.P.S.) Case No.107/2021** pending in the Court of learned Special Judge, Karimganj arising out of **Ratabari P.S. Case No.537/2021** under Section **22(c)** of the NDPS Act.

The earlier bail application of the accused petitioner being B.A. No.1209/2022 was rejected by this Court vide order, dated 20.07.2022.

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

The case relates to recovery and seizure of 10,000 Yaba tablets weighing 960 grams. (excluding plastic packets) from the possession of the accused petitioner which amounts to commercial quantity under the N.D.P.S. Act.

It is noticed that the accused petitioner has been in judicial custody since 06.11.2021, that is, for 710 days.

Perusal of the case record shows that the learned trial Court framed charge under Section 22(c) of the NDPS Act against the accused petitioner vide order, dated 16.06.2022. Thereafter, out of the listed 10(Ten) prosecution witnesses 4(four) PWs are already examined in the case.

This Court is of the opinion that although there is bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity in view of the mandate under Article 21 of the Constitution of India and considering the fact that the accused petitioner, who is a resident under Patherkandi P.S., has been in judicial custody for the last 710 days, if he 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.1,00,000/- (Rupees One Lakh) 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 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;
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining 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 petitioner shall refrain from committing any offences similar to the one of which he is 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**