

GAHC010183162023



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

Case No. : Bail Appln./2925/2023

MOHBUBUR RAHMAN AND ANR
S/O ABDUL HOQUE
R/O VILL- KANAKPUR,
P.O. AND P.S. NILAMBAZAR,
DIST. KARIMGANJ, ASSAM
PIN-788719

2: MD. ABDUL KALAM
S/O MD. AFTER UDDIN
R/O VILL- KANAKPUR

P.O. AND P.S. NILAMBAZAR

DIST. KARIMGANJ
ASSAM
PIN-78871

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 30.08.2023

Heard Mr. F.K.R.Ahmed, learned counsel the accused petitioners. Also heard Mr. B

Sarma, learned Addl. P.P., Assam.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Md. Mohbubur Rahman and 2. Md. Abdul Kalam** have prayed for grant of bail in connection with **Special NDPS Case No. 104/2021** pending in the court of learned Additional Sessions Judge, F.T.C., Karimganj (arising out of Badarpur PS No.258/2021) under Sections 22 © /29 of the NDPS Act.

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

It is noticed that the accused petitioners have been in judicial custody since 20.10.2021, i.e. for 682 days.

The case relates to recovery and seizure of 23800 drugs tablets (Methamphetamine) weighing 2.38 Kgs from the possession of the accused petitioners.

A perusal of the case record reveals that the learned Trial Court framed charges under Sections 22 (c)/29 of the N.D.P.S. Act r/w Section 34 of the IPC against the accused petitioners for illegally possessing 23800 drugs tablet (Methamphetamine) weighing 2.38 Kgs, vide order, dated 14.03.2022. Thereafter, the learned Trial Court has examined 6 (six) prosecution witnesses, out of listed 11 (eleven) witnesses. The aforesaid contraband amounts to commercial quantity under the N.D.P.S. Act. and the accused petitioners are in judicial custody since 20.10.2021, i.e. for 682 days.

Therefore, carefully keeping in consideration of the reasonable restrictions provided in Section 37 of the NDPS Act and in view of the prolonged period of detention and as the trial of the case has substantially progressed, this Court is of the opinion that further continuation of detention of the accused petitioners may not be necessary for the purpose of remaining part of trial.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs. 1,00,000/-** with 2 (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; and

- ii) That the accused petitioners shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution witnesses; and
- iii) That the accused petitioners shall refrain from committing any similar offences in future, 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