

GAHC010183762023



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

Case No. : Bail Appln./2928/2023

BABUL HUSSAIN
S/O LATE ABDUL JALIL
RESIDENT OF VILLAGE KUNA, BAGARGOOL, PO RAKESH NAGAR, PS
AND DIST KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. H R KHAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

07.11.2023

Heard Mr. H. R. Khan, learned counsel appearing for the accused petitioner as well as Mr. B. B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Babul Hussain**, has prayed for grant of bail in connection with **Special (NDPS) Case No. 69/2021** (arising out of Karimganj P.S. Case No. 675/2021) under Sections **22(C)** 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 petitioner has been in judicial custody since 18.07.2021, i.e. for 842 days.

The case relates to recovery and seizure of 600 numbers of YABA tablets, weighing 60 grams, from the possession of the accused petitioner.

The F.S.L. report shows that the sample of seized tablets gave positive tests for Methamphetamine.

A perusal of the case record reveals that the learned Trial Court framed charge under Section 22(C) of the N.D.P.S. Act against the accused petitioner for illegally possessing narcotic substance, vide order, dated 06.01.2022. Thereafter, the learned Trial Court has examined 3 prosecution witnesses, out of listed 6 witnesses.

The case record, as a whole, reveals that there is prima facie sufficient incriminating material against the accused petitioner, subject, of course, to final outcome in trial of the case.

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 in matters involving commercial quantity, in view of the mandate under Article 21 of the Constitution of India, if the accused petitioner 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 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 any of the remaining listed prosecution witnesses;
- 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 Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Any breach of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant