

GAHC010185512023



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

Case No. : Bail Appln./2976/2023

MUSSTT SAHIDA KHATOON @ ANJU AND 2 ORS.
W/O- MD NAZIR HUSSAIN, R/O- VILL- CHALCHALI, KASHAMARI GRANT
2, P.S. NAGAON, DISTRICT- NAGAON

2: MD RIYAJUL ISLAM
S/O- MD AHMED ALI
R/O- VILL- SIMOLUGURI
P.S. NAGAON
DISTRICT- NAGAON

3: MD. SADDAM AHMED
S/O- MD BAJAMAT JAMAL
R/O- VILL- KATIMANI GRANT
P.S. NAGAON
DISTRICT- NAGAO

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

29.09.2023

Heard Mr. B. Choudhury, learned counsel for the applicants. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 439 of the Code of Criminal Procedure, 1973, *read with* Section 37 of NDPS Act, 1985, is preferred by accused/applicants, namely, Musstt Sahida Khatoon @ Anju, Md Riyajul Islam and Md. Saddam Ahmed, who has been languishing in jail hazot since 06.08.2023, in connection with Bihphuria P.S. Case No. 140/2023 (corresponding to G.R. Case No.744/2023) under Sections 21(b)/29 of NDPS Act.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicants, Mr. B. Choudhury that the accused applicants were behind the bar since 55 days from the date of their arrest and thus, the I.O. got sufficient opportunity to interrogate them in the custody. He also submitted that further custodial interrogation may not be necessary here in this case and also there is no chance of absconding as the accused applicants are the permanent resident of Assam. He further submitted that the accused/applicants are ready to co-operate with I.O. for further investigation of the case if they are enlarged on bail.

On the other hand, Mr. B. Sharma, learned Additional Public Prosecutor, submits that Case Diary has already been received, however, the FSL report as

called for, has not yet been received till date, as the I.O. could not collect the same. Further, he also submitted that the applicant No.1 of this case is also involved in another case. Accordingly, he raised objection stating that the accused applicants should not be allowed to go on bail at this stage till receipt of the FSL report.

After hearing the submissions of learned counsels for both sides, I have perused the Case Diary, which reveals that some incriminating materials against the accused applicants. However, till date the IO could not provide the FSL report and there is no note of the IO as to whether the charge-sheet will be filed within statutory period. Rather, it is seen that the case is still under investigation. He also submitted that the case is still under investigation. Further considering the length of detention already undergone by the accused/applicants, i.e. 55 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/applicants in the custody and accordingly, further custodial interrogation of the accused/applicants seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 30,000/- (Rupees thirty thousand only) each with one surety of like amount to the satisfaction of the learned Special Judge, North Lakhimpur, the accused/applicants, namely, Musstt Sahida Khatoon @ Anju, Md Riyajul Islam and Md. Saddam Ahmed, be enlarged on bail, subject to the following conditions:

- (i) that the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;

- (ii) that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and
- (iii) that the applicants shall not leave the jurisdiction of the learned Special Judge, North Lakhimpur, without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant