

GAHC010190872023



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

Case No. : Bail Appln./3034/2023

BABA HAZARIKA @ PRANAB BORAH @ BHAITI
SON OF SRI MONIRAM HAZARIKA @ MONIRAM BORAH, RESIDENT OF
KHATKHATI KACHARIGAON, PO AND PS KATHKHATI, KARBI ANGLONG

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:DEPARTMENT OF FOREST (WILDLIFE)
GOVT. OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR (WILDLIFE DEPARTMENT)
ASSAM GAUHATI HIGH COUR

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 30.08.2023

Heard Mr. S.M.Abdullah P, learned counsel for the accused petitioner and Mr. D.P.Goswami, learned Additional Public Prosecutor for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Baba Hazarika @ Pranab Borah @ Bhaiti** has prayed for grant of bail in connection with

Special (NDPS) Case No. 45/2022 pending in the Court of learned Special Judge (NDPS Act), Karbi Anglong, Diphu (arising out of Khatkhati PS Case No.08/2022) under Sections 21 (C) /25 /29 of the NDPS Act read with Section 51 (1 A) of Wild Life (P) Act.

It is noticed that the accused petitioner has been in judicial custody since 13.01.2022, i.e. for 595 days.

The case relates to recovery and seizure of 795 grams of suspected heroin, two numbers of Sambar Head with antlers, 2 pieces of suspected elephant bone (elephant Ankle), one Turtle upper shell, 2 nos. of Civet Cat tail end and one Barking deer antlers along with some documents and cash amount of Rs.43, 980/- from the possession of the accused petitioner.

Having heard learned counsel for the parties and on perusal of documents annexed with the application as well as averments made in the petition, it is seen that after framing of charges, learned court below examined 10 (ten) witnesses out of 13 (thirteen) prosecution witnesses in the case. The seized contraband amounts to commercial quantity under the N.D.P.S. Act and other items recovered from the accused falls under the prohibited items of the Wild Life (Protection) Act. The accused petitioner is a permanent resident under Khatkhati P.S, District- Karbi Anglong. The trial of the case has substantially progressed.

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, if the accused petitioner, who is a permanent resident under Khatkhati P.S, District- Karbi Anglong, is released on bail, the remaining part of trial of the case is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), Karbi Anglong, Diphu** 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;
- (iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is accused 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.

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

This disposes of the bail application.

JUDGE

Comparing Assistant