

GAHC010193382023



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

Case No. : Bail Appln./3093/2023

RUPCHAND ALI
S/O BAISTULLAH @ BAISTULLAH SK.
VILL- FAKIRGANJ
P.S. FAKIRGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

20.12.2023

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for granting regular bail to the accused petitioner, namely **Rupchand Ali** in connection with **Fakirganj P.S. Case No.127/2023** under

Section **20(a)/22(c)** of the NDPS Act.

Heard Mr. N. Uddin, learned counsel for the petitioner and Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

The case of the prosecution, in brief, is that on 17.07.2023 at about 12.05 p.m., upon receiving secret information to the effect that a large quantity of narcotic drugs suspected to be psychotropic substances was being carried by one person in his Bajaj Pulsar motorcycle bearing Registration No. AS 17E 9422 coming from Joleswar side toards Fakirganj area, an FIR was lodged. Accordingly, the staff of the concerned S.I. went to Satsia area and intercepted the said bike and apprehended the present petitioner. Upon search the police recovered suspected drugs from his possession and from his bike along with cash amount of Rs.15,350/-.

Mr. N. Uddin, learned counsel for the petitioner, submits that the petitioner has not committed the offence with which he has been alleged and is in no way involved in the alleged case. He further submits that the petitioner by keeping his bike in front of his maternal in-law's house, went inside the house and when he came out, he saw the police team standing near his bike and as such, he is totally innocent.

Mr. B. Sarma, learned Addl. P.P., on the other hand, strongly opposed the prayer for bail and submits that the contraband articles have been recovered from the possession of the accused petitioner and that the petitioner is a habitual offender and therefore, bail ought not to be granted to him.

I have considered the submissions made at the bar and perused the case records.

From the scanned copy of the case records produced before this Court it

appears that the petitioner was caught red handed while he was transporting the suspected seized contraband articles and the same has been recovered from his possession. It further appears that during investigation the petitioner has admitted that he has been involved in stocking and selling of such illegal drugs since long. It further appears that he is a habitual offender, who was previously arrested in two drugs cases vide Fakirganj P.S. Case No.354/2019 under Section 22(c) of the NDPS Act and Fakirganj P.S. Case No. 134/2021 under Section 22(c) of the NDPS Act. It further appears that in both the cases charge-sheets were submitted.

Considering the facts and circumstances of the case, it appears that there is prima facie material indicating the guilt of the petitioner and also on the basis of the materials produced, there are reasons to believe that the petitioner, if released on bail, is likely to commit the offence of which he is alleged of commission.

Situated thus, I am not inclined to grant bail to the accused petitioner.

Accordingly, the bail application stands rejected.

It is needless to say that the observations made herein are tentative only and shall have no bearing in any other proceeding.

JUDGE

Comparing Assistant