

GAHC010194572022



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

Case No. : I.A.(Crl.)/566/2022

ABDUS SALAM AND ANR
S/O SIDDIQUE ALI, VILL.- TARANGAPUR PART- I, P.O. AND P.S.- CHAPAR,
DIST.- DHUBRI, ASSAM, PIN- 783371.

2: ASAB UDDIN ALI @ ASHRAFUDDIN ALI @ ASHABUDDIN ALI
S/O AMZAD ALI

VILL.- TARANGAPUR PART- I

P.O. AND P.S.- CHAPAR

DIST.- DHUBRI
ASSAM
PIN- 783371

VERSUS

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

Advocate for the Petitioner : MR. A AHMED
Advocate for the Respondent : PP, ASSAM

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Applicants :	Mr. A. Ahmed, Advocate
For the Respondent :	Mr. D. Das, Addl. Public Prosecutor, Assam.

Date of Hearing : 01.06.2023.

Date of Judgment : 05.06.2023.

JUDGMENT AND ORDER (CAV)

Heard the learned counsel Mr. A. Ahmed appearing for the applicants. Also heard Mr. D. Das, the learned Addl. Public Prosecutor representing the respondent State of Assam.

2. This is an application under Section 389 of the CrPC praying for suspension of sentence and for releasing the applicants Abdus Salam and Asab Uddin Ali @ Ashrafuddin Ali @ Ashabuddin Ali on bail during pendency of the appeal.

3. On 07.09.2021 at 5.30 P.M., S.I. Pranab Doley of Chapar Police Station got information that a large quantity of illegal tablets was kept and also being sold at Tarangapur Part-I. He also got the information that the present applicants are involved in the illicit trafficking of those tablets. A General Diary Entry was made and the police party led by SDPO Birenchi Kr. Bora went to the place of occurrence. The police party searched the house of the applicants and found 2450 strips of illegal tablets which were kept concealed under a mobile phone tower near the house of the applicants.

4. S.I. Pranab Doley has stated in her evidence that the police team went to the place of occurrence at about 2 A.M. in the morning of 08.09.2021. He stated that he did not prepare the inventory. According to Pranab Doley, the illegal articles were recovered after they were led there by the applicants.

5. The witness Ajadul Islam has stated in his evidence that on the day of occurrence at about 2 A.M., police had knocked their door and he was asked by police to show the house of the applicants. Accordingly, Ajadul Islam led police party to the house of the applicants. Ajadul Islam further stated that police had searched the house of the applicants but did not find anything in their house. According to this witness, police recovered some materials from the jungle near the house of the applicant Abdus Salam.

6. Ajadul Islam has stated in his cross-examination that police had taken his signature in a blank paper though police seized the tablets from under the tower. He further stated that the tower does not belong to the applicants.

7. The witness Abdul Latif has stated in his evidence that police had recovered more than 4000 intoxicating tablets from the jute fields. He further stated that nothing was found in the house of the applicants.

8. The witness Mohar Ali has stated in his evidence that police brought the two applicants to a pile of jute lying near a mobile phone tower and recovered tablets which were kept concealed inside the pile of jute.

9. This witness has stated that the mobile tower is situated at a distance of about 120 ft. from the houses of the applicants and the same is situated on somebody else's land.

10. The witness Nocheng Shyam was a member of the police party, which recovered the illegal tablets. He has stated in his evidence that S.I. Pranab Doley had prepared the inventory.

11. I have carefully gone through the evidence. The sentence passed in judgment and order dated 31.08.2022 by the learned Special Judge, Bilasipara, Dhubri in Special (NDPS) Case No.31/2021 is suspended. The applicants deserve to be released on bail. Accordingly, the applicants Abdus Salam and Asab Uddin Ali @ Ashrafuddin Ali @ Ashabuddin Ali are allowed to go on bail of ₹50,000/- each with sureties of like amount to the satisfaction of the learned Special Judge, Bilasipara, Dhubri.

The I.A. stands disposed of.

JUDGE

Comparing Assistant