

GAHC010195092023



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

Case No. : Bail Appln./3067/2023

MOINA KACHARI @ TULASHI AND 2 ORS
S/O LATE BAHUBALI KACHARI
R/O VILL- SRIBHUYAN GAON
P.S. NARAYANPUR,
DIST. LAKHIMPUR, ASSAM

2: SHRI HAREN KACHARI
S/O SHRI MOINA KACHARI @ TULASHI
R/O VILL- SRIBHUYAN GAON

P.S. NARAYANPUR
DIST. LAKHIMPUR
ASSAM

3: SHRI PRANJAL DEORI
S/O NABIN DEORI @ NOBIN SINGH @ LALUNG

R/O VILL- MAJOR CHAPORI
P.S. NARAYANPUR
DIST. LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 18.10.2023

Heard Mr. P.J. Saikia, learned Senior counsel assisted by Mr. B. Deuri, learned counsel for the petitioners. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This is an application made under **Section 439 Cr.P.C.**, seeking bail on behalf of the alleged petitioners, namely, **Moina Kachari @ Tulashi, Haren Kachari and Pranjal Deori**, in connection with **Special (NDPS) Case No. 18/2023**, registered under Section **20(b)(ii)(C) of the NDPS Act, 1985**, pending before the learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur.

3. It has been submitted by the learned Senior counsel for the accused/petitioners that the accused have been detained in custody since 13.12.2022 and 15.02.2023 respectively. It is also submitted that the alleged ganja was seized from the house of the petitioner Nos. 1 and 2. Nothing was recovered from the possession of the petitioner No. 3. The petitioner No. 2 is the son of petitioner No. 1. It is further submitted that the charge-sheet was submitted against the present petitioners along with one co-accused who was shown to be an absconder. Subsequently, warrant of arrest was issued against the said co-accused person. It is also submitted that the case is fixed for production and appearance but charge was not framed due to non-appearance of the co-accused person. Under such backdrop and considering the period of detention, the petitioners may be enlarged on bail.

4. In response, Mr. Goswami, the learned Additional Public Prosecutor has submitted that commercial quantity of ganja was recovered from the house of the petitioner Nos. 1 and 2. Though, charge-sheet has been submitted, if bail is granted to the petitioner, there is every chance of committing such type of offence immediately after their release. Therefore, prayer of the petitioners may not be considered at this stage.

5. I have considered the submissions made by the learned counsel for the parties and I have also perused the scanned copy of the LCR.

6. It appears that charge-sheet has been submitted against the four accused persons including the present petitioners. The other co-accused did not appear before the trial court for which warrant of arrest was issued against him. As charge has not yet been framed and no witnesses were examined, there is little chance of disposing of the matter within 5/6 months. Considering the period of detention, bail prayer of the petitioners is allowed.

7. Accordingly, the accused, named above, shall be released on bail in connection with **Special (NDPS) Case No. 18/2023**, registered under **Section 20(b)(ii)(C) of the NDPS Act, 1985**, pending before the learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur, on furnishing bail bond of **Rs.1,00,000/- each** with **two suitable sureties each** of the like amount out of which one of the sureties should be a Government employee, to the satisfaction of learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur.

8. The direction for bail is further subject to the conditions that the alleged accused-petitioners:-

(a) shall not leave the territorial jurisdiction of learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur without prior written permission from him/her; and

(b) 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 him from disclosing such facts to the Court or to any police officer.

9. The learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur is at liberty to impose any condition(s) as it deems fit and proper at the time of releasing the accused/petitioners on bail to procure their attendance during trial.

10. The observation made above, shall confine for the purpose of disposal of this bail application only and shall not in any way affect the proceeding of the trial.

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

JUDGE

Comparing Assistant