

GAHC010200292022



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

Case No. : Bail Appln./2517/2022

MAINUDDIN AHMED
SON OF SOFORUDDIN MIYA
R/O VILL- SAGOLIYA PART-II
P.S. GOLAKGANJ,
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 16.03.2023

Heard Ms. K Devi, learned counsel for the accused petitioner as well as Mr. D Das, learned Additional Public Prosecutor, Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Mainuddin Ahmed** has prayed for grant of bail in connection with **Agomoni P.S. Case No.475/2021**

(Special Case No. 85/2022) under Section under Section 22 (c) of the NDPS Act.

The scanned copy of the case records is received.

Ms. K Devi, learned counsel for the accused petitioner submits that the accused has been in judicial custody for more than 1 year 5 months on mere suspicion of having possessed commercial quantity of drugs. Ms. Devi submits that out of 13 prosecution witnesses, 10 witnesses have already been examined and as such, there is no sufficient cause warranting further continuation of his detention for the purpose of examination of the remaining two prosecution witnesses.

Per contra, Mr. D Das,, learned Additional Public Prosecutor, submits that the case record reveals that a charge under Section 22 (c) of the NDPS Act has been framed against the accused and 2(two) others on 02.03.2022. Thereafter, 10 prosecution witnesses out of listed 13 (thirteen) witnesses are examined out of whom 04 (four) witnesses are declared hostile to the prosecution.

The prosecution case is that on 19.10.2021, the informant while on Naka checking duty at Belguri apprehended one Motor Cycle No.As-17-K-1809 and recovered 30 Bottles of Eskuf DX Syrup, 576 nos. Pyeevon Spas plus capsule from one Mofijul Ali Paramanik .

On reading of the evidence of the prosecution witnesses, this Court finds that the accused petitioner cannot be said to be not guilty of the offence, subject, however, to independent judicial discretion of the learned trial court after hearing of both sides.

However, as it appears that substantial part of the evidence has already been recorded in the case and there is no indication of criminal antecedence, and further, the accused being a permanent resident under Golakganj PS, there is no chance of him jumping the remaining course of trial and as such, the prayer for bail of the present accused petitioner may be considered favourably.

Accordingly, it is provided that the accused petitioner shall be released on bail of **Rs.1 Lakh (One Lakh) with 2(two) sureties** of like amount to the satisfaction of learned **Special Judge (NDPS Act) Dhubri**.

The above bail order shall, however, be 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; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission; and
- iv) That out of the two bailors, 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 of bail shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant