

GAHC010201902023



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

Case No. : Bail Appln./3161/2023

PINTU NATH
S/O PULIN NATH
R/O RATHIABARI
P.S. KUMARGHAT
DIST. UNAKUTI TRIPURA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 12.09.2023

Heard Mr. M. A. Choudhury, learned counsel for the accused petitioner. Also heard Mr. D. P. Goswami, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Pintu Nath**, has prayed for grant of bail in connection with **Special (N.D.P.S.) Case No.26/2022** pending in the Court of learned Special Judge, Karimganj

arising out of **Karimganj P.S. Case No.101/2022** under Sections **22(c)/29** of the N.D.P.S. Act.

The scanned copy of case record, as called for, is placed before the Court.

The case relates to recovery and seizure of suspected to be narcotic drugs (Yaba tablets), weighing 171 grams (net weight), from the possession of the accused petitioner and another, which amounts to commercial quantity under the NDPS Act.

The F.S.L. report shows that the sample of the seized tablets gave positive tests for Methamphetamine.

It is noticed that the accused petitioner has been in judicial custody since 13.02.2022, that is, for 576 days.

Perusal of the case record shows that charges were framed by the learned trial Court under Sections 22(c)/25/29 of the NDPS Act against the accused petitioner and another vide order, dated 30.09.2022. Thereafter, out of the listed 9(nine) prosecution witnesses, 4(four) P.Ws are already examined in the case.

Considering the grounds cited in the petition along with the documents annexed therewith and also the fact that the similarly situated co-accused person has already been granted bail by this Court, vide order, dated 31.08.2023, passed in Bail Appln. No. 1905/2023, 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 has been in judicial custody for last 576 days, is released on bail, the remaining part of the trial is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall

be released on bail of **Rs.1 Lakh** with two government servant sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), Karimganj** 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;

ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court;

iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; and

iv) That the accused petitioner and his bailors shall produce their Voter Identity Card/Passport/Permanent Residential Certificate, whatever is available at the time of submission of the bail bonds for satisfaction of the learned Court below regarding their identity and address and then return the same retaining legible scanned copy thereof on record. If deemed necessary, the learned Court below shall subject the documents to police verification.

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

This disposes of the bail application.

JUDGE

Comparing Assistant