GAHC010205712023

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

Case No. : Bail Appln./3215/2023

AJMAL KHAN
S/O LATE MANOWAR
R/O HAOREBI TUREL DAM
MAKHA LILONG
P.S.LILONG
DIST. THOUBAL, MANIPUR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 14.09.2023

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

By this petition under Section 439 Cr.P.C., the accused petitioner, namely**, Ajmal Khan** has prayed for grant of bail in connection with **N.D.P.S. Case No.119/2022** pending in the

Court of learned Addl.Sessions Judge, No.3, Kamrup (M), Guwahati (corresponding to **Basistha P.S. Case No.209/2022**) under Sections **21(c)/24/29** of the N.D.P.S. Act.

The case relates to recovery and seizure of 500 grams of heroin from the possession of the accused petitioner and other co-accused persons.

It is noticed that the accused petitioner has been in judicial custody since 15.02.20221, that is, for 577 days.

Having heard the learned counsel for the parties and on perusal of the FIR, Forwarding Report, Seizure memo, along with the orders passed by the learned court below, it reveals that 500 grams of heroin was seized from the possession of the accused petitioner and other co-accused persons which amounts to commercial quantity under the NDPS Act. The learned Trial Court after framing of the charge, examined 3(three) prosecution witnesses out of listed 5(five) witnesses.

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 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.1,00,000/- (Rupees One Lakh) only** with 02(two) sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Kamrup (M), Guwahati** 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 out of the two sureties, 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 shall render cancellation of bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant