

GAHC010206332022



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

Case No. : Bail Appln./2595/2022

ANITA PAL
D/O- GOPAL PAL, R/O- WARD NO. 7, TUREL WANGMA, P.O. AND P.S.
MOREN, DIST. TENGNOUPAL, MANIPUR, PIN- 795131.

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NARCOTIC CONTROL
BUREAU, GUWAHATI ZONAL UNIT, GUWAHATI UNDER THE MINISTRY OF
HOME AFFAIRS, DEPARTMENT OF INTERNAL SECURITY, GOVERNMENT
OF INDIA, NEW DELHI.

Advocate for the Petitioner : MR. J ABBAS

Advocate for the Respondent : SC, NCB

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.01.2023.

Heard Mr. J. Abbas, learned counsel for the accused. Also heard Mr. SC Keyal,

learned standing counsel for the respondent NCB.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Smti. Anita Pal, who has been languishing in jail hazot since 13.06.2022, in connection with the NCB, Guwahati, Crime No.17/2022, registered under Section 8(c) read with Section 21(c)/29 of the NDPS Act, for granting bail.

3. The aforementioned case has been registered on the basis of one complaint, lodged by one Anil Khuswaha, Intelligence Officer, NCB, Zonal Unit, Guwahati, to the effect that acting on a tip off, on 13.06.2022, at about 5:00 P.M., one Prem Narayan Jha, Intelligence Officer, NCB, Guwahati, apprehended one Anita Pal at Platform No.7 of Guwahati Railway Station, while she was de-boarding from Coach No.D-3 of Leedo-Guwahati Intercity Express and after search, recovered 250-300 grams of Heroin, from her possession and seized the same in presence of witnesses, preparing seizure list.

4. Mr. J. Abbas, learned counsel for the accused submits that the accused was arrested on 13.06.2022, and since then, she has been languishing in jail jazot and after completion of investigation, final complaint has been lodged against her and now the case is pending for trial and that nothing has been recovered from the possession of the accused and she is innocent and she will participate in the trial and therefore, it is contended to allow the petition.

5. Whereas, Mr. SC Keyal, learned Standing Counsel for the respondent NCB

submits that the I.O. has collected sufficient materials against the accused and lodged final complaint and the quantity of contraband substance, recovered from the possession of the accused, is of commercial quantity and final complaint has been filed under Section 21(c)/29 of the NDPS Act, and the seizure list reveals that 289.210 grams of Heroin was recovered from 22 numbers of soap cases, from her possession and that there is nothing on the record to show that the accused has succeeded, in satisfying the two conditions, under Section 37 of the NDPS Act and therefore, Mr. Keyal contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the case record, received from the learned Court below and also perused the objection petition filed by Mr. Keyal, learned standing counsel for the NCB.

7. Having carefully gone through the scanned copy of the case record of the learned Court below, specially from the seizure list, it appears that 289.210 grams of Heroin was recovered from the conscious possession of the accused and seized in presence of witnesses the said quantity is of commercial quantity, and as such, rigors of Section 37 of the NDPS Act will come into play here in this case and from the documents placed on record and also from the record of the learned Court below, as well as from the submission of learned counsel for the accused, this Court is unable to derive it's satisfaction that there exists any reasonable ground for believing that the accused is not guilty of the offence and that she will not commit similar offence, while on bail.

8. In view of above and also in view of the nature and gravity of the offence and punishment prescribed for the same, this Court is of the view that this is not a fit case, where the privilege of bail can be granted the accused, under Section 439 of the CrPC and accordingly, the petition stands dismissed.

9. However, the learned court below is directed to expedite the trial and complete the same within the earliest possible time, without being influenced by any of the observation made herein above, as the same is made only for the purpose of disposing of this bail application, not on the merit of the case. If necessary, the learned court below shall take recourse to the provision of section 309(1) Cr.P.C.

10. In terms of above, the bail petition stands disposed of.

JUDGE

Comparing Assistant