

GAHC010208282023



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

Case No. : Bail Appln./3311/2023

NASIR UDDIN
SON OF SRI AHMED ALI, RESIDENT OF VILLAGE- KHIARBOND, POLICE
STATION- PATHARKANDI, DISTRICT- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, STATE OF ASSAM

Advocate for the Petitioner : MR. J M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

- B E F O R E -
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

12.12.2023

Heard Mr. J.M.A. Choudhury, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sri Nasir Uddin, who has been behind the bars since 10.06.2023 (for last 182 days) in connection with Patharkandi P.S. Case No.190/2023 under Sections 21(b)/25 of the NDPS Act, 1985.

The gist accusation in this case is that on 10.06.2023, one Shri Longsing Kro, SI of Patharkandi Police Station had lodged an FIR before the Officer-In-Charge of Patharkandi Police Station, *inter-alia*, alleging that total 61 grams of suspected heroine was found from the possession of the present petitioner. On receipt of the said FIR, Patharkandi P.S. Case No.190/2023 was registered and the investigation was initiated. Ultimately, on completion of the investigation, charge-sheet was laid against the present petitioner under Section 21(b)/25 of the NDPS Act, 1985.

Learned counsel for the petitioner has submitted that the offence alleged against the petitioner is under Section 21(b)/25 of the NDPS Act, 1985 for which statutory period of detention is 60 (sixty) days. However, before one day of completion of the said statutory period of detention, the Investigating Officer had laid the charge-sheet and the petitioner has been detained behind the bars since the date of his arrest and now he is languishing behind the bar for last 182 days.

Learned counsel for the petitioner has submitted that the petitioner is a permanent resident of Karimganj District and he is ready to face his trial and co-operate in his trial and therefore, he prays for allowing the petitioner to go on bail.

On the other hand, learned Additional Public Prosecutor opposes grant of bail to the present petitioner and submits that at least the charges should be framed and the main witnesses may be examined before the petitioner is released on bail.

I have considered the submissions made by the learned counsel for both the sides and have perused the scanned copy of the case record of Patharkandi P.S. Case No.190/2023 and Special NDPS Case No.63/2023.

It appears from the record that the charges are yet to be framed and there are 9 (nine) enlisted witnesses on the charge-sheet and completion of trial would naturally take some time.

As the petitioner is no longer required for the purpose of investigation as the same has already been completed and as the petitioner is ready to face the trial and a

permanent resident of Karimganj district, this Court is of the considered opinion that if the petitioner co-operates in the trial, his custodial detention may not be necessary during pendency of the trial of Special NDPS Case No.63/2023.

In view of above, the petitioner, namely, Sri Nasir Uddin, is hereby allowed to go on bail of Rs.30,000/- (Rupees thirty thousand) with one surety of the like amount subject to the satisfaction of learned Sessions Judge/Special Judge, Karimganj with the following conditions:-

(i) That the petitioner shall regularly appear before the learned Trial Court as and when the case is fixed for trial or as and when the learned Trial Court directs him to do so.

(ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to the enlisted witnesses or any other person who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts against him before the Investigating Officer or to the Court.

With the above directions, the present bail application stands disposed of.

JUDGE

Comparing Assistant