

GAHC010132262023



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

Case : Bail Appln./3314/2023

SHUNGOA DUKRU AND ANR
SON OF CHASLL DUKRU RESIDENT OF VILLAGE ZHAVAME (ZHAMAI) P. S.
PFUTSERO DISTRICT PHEK
NAGALAND.

2: SALUNYI POHENA
SON OF KHANYI POHENA RESIDENT OF VILLAGE ZHAVAME (ZHAMAI) P.S.
PFUTSERO DISTRICT PHEK
NAGALAND .
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. S MUNIR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.10.2023

Heard Mr. S. Munir, learned counsel for the accused petitioners. Also heard Mr. B. B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State

respondent.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1. Shungoa Dukru 2. Salunyi Pohena** have prayed for grant of bail in connection with **Special N.D.P.S. Case No.41/2022** arising out of **Khatkhathi P.S. Case No.34/2022** under Section **21(c)/24/29** 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 711.06 grams of heroin from the possession of the accused petitioners.

It is noticed that the accused petitioners have been in judicial custody since 30.03.2022, that is, for 567 days.

Mr. B. B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent has raised strong objection against grant of bail to the accused petitioners.

Perusal of the case record shows that charge was framed by the learned trial Court under Section 21(c) read with Section 29 of the NDPS Act against the accused petitioners vide order, dated 14.07.2023. Thereafter, out of the listed 3(three) prosecution witnesses 2(two) PWs are already examined in the case.

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 petitioners, who are a permanent resident of Nagaland, are released on bail, there is no chance of her jumping the trial of the case.

For the above stated reasons, it is provided that the accused petitioners, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh)**

each only with two sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Karbi Anglong, Diphu** subject to the following g conditions-

- i) That the accused petitioners 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 petitioners 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 them from disclosing such facts to the Court;
- iii) That the accused petitioners shall refrain from committing any offences similar to the one of which they are 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