

GAHC010209882023



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

Case No. : Bail Appln./3301/2023

AMAN DULAL AND ANR
SON OF SRI KHADANANDA DULAL RESIDENT OF BISHNU PANCHAYAN
MANDIR P.S SAFRMAINA DISTRICT SENAPATI, MANIPUR

2: BIKASH THAPA
SON OF LATE BHIM BAHADUR THAPA RESIDENT OF VILLAGE MAOHING
NEPALI
H. NO 97 P.S. SENAPATI DISTRICT SENAPATI
MANIPUR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

19.10.2023

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

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1.**

Aman Dulal 2. Bikash Thapa have prayed for grant of bail in connection with **Special (N.D.P.S.) Case No. 08/2022** arising out of **Borpathar P.S. Case No.61/2021** under Section **21(c)/29** of the N.D.P.S. Act.

The case relates to recovery and seizure of 698.54 grams of heroin from the possession of the accused petitioners.

It is noticed that the accused petitioners have been in judicial custody since 10.10.2021, that is, for 739 days.

Mr. S. Munir, learned counsel for the accused petitioners submits that in this case charge was framed by the learned trial Court under Section 21(C)/29 of the NDPS Act against the accused petitioners vide order, dated 14.02.2022 and thereafter, out of the listed 16 (sixteen) prosecution witnesses 5(five) PWs are already examined in the case. Mr. Munir also submits that one co-accused person has already been enlarged on bail by this Court vide order dated 27.07.2023 in BA No. 805/2023.

Upon hearing the learned counsel for both sides and considering the averments made in the petition and the documents annexed thereto, 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 permanent residents of Manipur, are released on bail, the remaining part of trial of the case is unlikely to be adversely affected.

In view of above, 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 government servant sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Karbi Anglong, Diphu** subject to the following

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 the two sureties Government servant shall be 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 in the event of non-appearance of the accused.

This disposes of the bail application.

JUDGE

Comparing Assistant