

GAHC010210282022



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

**Case No. : Bail Appln./2681/2022**

GAUTAM SINGHA  
S/O- LATE JAGADISH SINGHA,  
R/O- VILL.- NIZ DALGAON,  
HARIJAN BASTI,  
P.S.- DALGAON, DIST- DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM  
REP. BY PP, ASSAM.

**Advocate for the Petitioner : MR M AHMED**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : 06-01-2023**

Heard Mr. M Ahmed, learned counsel for the applicant and also heard Mr. BB Gogoi, learned Addl. PP, appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by accused ***Gautam Singha***, who has been languishing in jail hajat in connection with

***Special (N) Case No.23/2021***, under section ***20(b)(ii)(c)***, NDPS Act, pending before the court of learned Special Judge, Darrang, Mangaldoi since 13.07.2021, for grant of bail.

The said case has been registered on the basis of an FIR lodged by SI Nakul Phukan, of Dhula PS on 13.07.2021, to the effect that acting on a tip off, they have intercepted one Mahindra Jitu Vehicle, bearing registration No.AS 13 / 1939, in front of Dhula PS and recovered 6 numbers of white coloured polythene packets, containing suspected ganja, which were concealed under six numbers of paddy filled gunny bags and seized the same in presence of witnesses and apprehended one person, namely, Gautam Singha and during interrogation, Gautam Singha stated that he has kept some more ganja in his village house, and accordingly, they have conducted search in his shop premises and recovered 944 gms of suspected ganja in white coloured polythene bag, and seized the same.

The learned counsel for the accused submits that the accused is behind the bar for more than 1 year 5 months and after investigation, charge sheet has already been laid before the learned court below, citing as many as 6 witnesses and out of the six witnesses, learned court below has examined 4 (four) witnesses, after framing charge against the accused under section 20(b)(ii)(c) NDPS Act.

Referring to the evidence of seizure witnesses, the learned counsel for the accused submits that they have not supported the prosecution version and also referring to the PW-4 who was the driver of the said vehicle, stated that the present accused was travelling in the vehicle as labourer and therefore, it is contended to allow this petition.

On the other hand, Mr. RJ Baruah, learned Addl. PP has vehemently opposed the petition on the ground that the seized ganja were recovered from the possession of the accused and PW-1, the first informant, has implicated him with the offence charged and therefore, Mr. Baruah contended to dismiss the petition.

Having heard the submission of the learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on

record and also perused the scanned copy of the record received from the learned court below.

It appears that the accused is charged under section 20(b)(ii)(c) of the NDPS Act and out of the 6 cited witnesses in the charge sheet, four have already been examined by the learned court below. Admittedly, the quantity of ganja recovered from the possession of the accused is commercial quantity and as such, the accused has to satisfy the rigors of section 37 NDPS Act. But, from the materials placed on record and also from the scanned copy of the record received from the learned court below and also from the submission of the learned counsel for the accused, this Court is unable to derive its satisfaction that there exist no reasonable ground for believing that the accused is not guilty of the offence charged and that he will not commit such offence while on bail.

In view of the above, this Court is of the opinion that this is not a fit case where the privilege of bail can be granted to the accused. And accordingly, the petition stands dismissed. However, the learned court below is directed to expedite the trial and to complete the same, if possible within a period of 2 (two) months from today, and if necessary, the learned court below shall take recourse to section 309(1) Cr.P.C, without being influenced by any of the observations made by this Court herein above, which is made only to dispose of this bail application.

In terms of the above, this bail application stands disposed of.

**JUDGE**

**Comparing Assistant**