

GAHC010213022023



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

Case No. : Bail Appln./3380/2023

MD. SALAM
S/O SAFAODDIN
R/O SORA KARANCHI, IRENGABAD
KAKCHING BAZAR,
THOUBAL, P.S. KAKCHING
MANIPUR, PIN-795103.

VERSUS

THE UNION OF INDIA
REP. BY SC, NCB

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 18.10.2023

Heard Mr. S. Munir, learned counsel appearing for the accused petitioner. Also heard Mr. S. C. Keyal, learned Standing Counsel, NCB.

2. By this petition under Section 439 Cr.P.C., the accused/petitioner, namely, **Md. Salam**, has prayed for grant of bail in connection with **NDPS Case No.39/2021** arising out of **NCB Crime No.01/2021** under Sections **22(C)/29** of the NDPS Act.

3. The scanned copy of case record, as called for, is placed before the Court.

4. The case relates to recovery and seizure of 5.8 kg Methamphetamine tablets from the joint possession of the accused petitioner and another.
5. It is noticed that the accused petitioner has been in judicial custody since 05.01.2021, i.e., 1016 days.
6. Perusal of the case record reveals that charges under Sections 22(c)/29 of the NDPS Act are framed against the accused persons, vide order, dated 11.11.2022. However, out of ten listed prosecution witnesses, only two witnesses have been examined in the case till date.
7. It is noticed that the conduct of some co-accused persons, on the other hand, are not satisfactory as they defaulted in appearance to participate in the trial of the case despite coercive actions were being initiated against them and sometimes, as noted by the learned trial Court, for want of due diligence of the prosecution NCB in taking timely steps as per directions of the Court, the cumulative consequence of which is the inordinate delay in disposal of the case against the present accused petitioner although he has been languishing in judicial custody for last 1016 days. The situation is alarming in the case entailing deprivation of the present accused petitioner's right to speedy justice as envisaged in Article 21 of the Constitution of India.
8. It may be mentioned that the Intelligence Officer of NCB has submitted objection against grant of bail to the accused petitioner by citing various grounds based on evidence that was collected and found during investigation into the case, whereas the instant case is pending for trial before the Court of learned Addl. Sessions Judge FTC No. 3, Kamrup (M) at Guwahati.
9. In the backdrop of the above facts and circumstances as well as the bar contained in Section 37 of the NDPS Act, this Court is of the opinion that at the present stage, it is expedient in the interest of a fair trial of the case that at least some material witnesses should be examined before considering release of the accused petitioner on bail.
10. Accordingly, it is provided that the learned trial Court shall complete recording of evidence of prosecution witness within **a period of 4 (four) months** from the date of receipt of a copy of this order, failing which, the accused shall be released on bail subject to stringent conditions.

11. Furnish a copy of this order to Mr. S.C. Keyal, learned Standing Counsel, NCB so that he can cause urgent taking of steps to produce the witnesses on the next dates fixed for evidence.

Registry to forward a copy of this order to the learned Trial Court.

With the above direction, the bail application stands disposed of.

JUDGE

Comparing Assistant