

GAHC010213192022



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

Case No. : Bail Appln./2757/2022

FARUK UDDIN
S/O ABDUL MOTIN
R/O BORJARI MASSGAON
P.S. JAMUNAMUKH
DIST. HOJAI, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 10.02.2023

Heard Mr. S. Nawaz, learned counsel for the petitioner as well as Mr. R. J. Baruah, learned Additional PP for the State.

2. The petitioner, namely, Faruk Uddin was arrested on 25.05.2022, is

seeking regular bail under Section 439 Cr.P.C. in connection with NDPS Case No. 83/2022 under sections 22(b)/22 (c)/24/29 of the NDPS Act.

3. The learned counsel for the petitioner has referred to the FIR as well as the seizure list appended to this bail application to project that on 24.05.2022, the house of Jiyabur Hoque (Rahman) was searched and 66 grams of suspected brown sugar (heroin) was recovered. It is submitted that later on, on 25.05.2022, the vehicle belonging to Zakir Ahmed was searched for the further 248 grams of heroin was seized. Accordingly, it is submitted that two separate seizures of narcotic substances were clubbed together. Therefore, it is submitted that the petitioner is wrongly implicated of committing offence under section 22(b) (ii) (C) of the NDPS Act.

4. The learned APP has perused the scanned copy of the case records received from the learned Trial Court and has opposed the prayer for bail.

5. The case diary reveals that on 24.05.2022, 66 grams of heroin was seized from the house of Jiyabur Hoque (Rahman). However, the same day, four wheeler vehicle (i20) and a motor cycle (Yamaha) were also seized. The seized vehicles were brought to the police station and on search of the said four wheeler vehicle bearing registration No. AS-01BX-6444 and Motorcycle bearing registration No. AS-31-5660, a further recovery of 248 grams of heroin (brown sugar) was made, which was kept concealed in 20 numbers of soap cases. As per the FSL report, the suspected narcotic drug was found to be heroin.

6. Accordingly, the Court is of the considered opinion that seizure conducted on 24.05.2022 and 25.05.2022, had both arisen out of the same raid and search held on 24.05.2022 and therefore, the Court *prima facie* finds that as the petitioner is accused of committing offence under Section 22(b)(ii)(C) of

the NDPS Act, the Court is unable to record its satisfaction that the petitioner is not guilty of committing such offence and that he is not likely to commit any offence, if released on bail, which is the requirement of Section 37 of the NDPS Act, 1985

7. Accordingly, the prayer for bail is rejected.
8. Registry shall not issue any certified or uncertified copy of any part of the scanned copy received from the learned Trial Court.

JUDGE

Comparing Assistant