GAHC010213232023

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

Case No. : Bail Appln./3436/2023

APPAN HUSSAIN LASKAR
S/O KALU MIA LASKAR
PERMANENT RESIDENT OF BAGHA BAZAR, P.O. BAGHA BAZAR, P.S. DHOLAI,
DIST. CACHAR, ASSAM
PIN-788120

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

10.11.2023

Heard Mr. I. Alam, learned counsel for the accused petitioner. Also heard Mr. R.R. Kaushik, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Appan Hussain Laskar** has prayed for grant of bail in connection with **Special (NDPS) Case No.132/2022** under Sections **22(c)/25/29** of the NDPS Act pending in the Court of learned Special Judge (NDPS Act), Karimganj arising out of **Badarpur P.S. Case No.197/2022** (**G.R. Case No.1649/2022**).

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

The case relates to recovery and seizure of 10,000 Yaba tablets weighing 1007 grams (gross weight) from a vehicle bearing registration No. AS 11 J 4261 which amounts to commercial quantity under the NDPS Act.

It is noticed that the accused petitioner has been in judicial custody since 03.09.2022, that is, for 434 days.

Mr. R.R. Kaushik, learned Addl. Public Prosecutor, has raised strong objection against grant of bail to the accused petitioner as the matter involves commercial quantity and in view of the bar under Section 37 of the NDPS Act.

Perusal of the case record shows that in this case charges were framed by the learned trial Court under Sections 22(c)/25/29 of the NDPS Act against the accused petitioner and three others vide order, dated 28.04.2023. Thereafter, out of the listed 11(eleven) prosecution witnesses 6(six) 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 petitioner, who is a permanent resident under Dholai P.S. Dist. Cachar, is released on bail the remaining part of the trial is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh) only** with two government servant sureties of like amount, as submitted by the learned counsel for the accused petitioner, to the satisfaction of the learned **Special Judge (NDPS Act), Karimganj** subject to the following conditions-

i) That the accused petitioner 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 petitioner 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 him/her from disclosing such facts to the Court; and

iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant