

GAHC010214782023



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

Case No. : Bail Appln./3392/2023

PRADIP DEKA
S/O LT. PUNURAM DEKA
R/O UTTAR NAGAON
P.S. AND DIST. MAZBAT
DIST. UDALGURI, ASSAM

VERSUS

THE STATE OF ASSAM
THROUGH THE PP, ASSAM

Advocate for the Petitioner : MR. A DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

22.09.2023

Heard Mr. A. Dutta, learned counsel for the accused petitioner. Also heard Mr. D.P. Goswami, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this second petition under Section 439 Cr.P.C., the accused petitioner, namely **Pradip Deka** has prayed for grant of bail in connection with **N.D.P.S. Case**

No.194/2022 arising out of **Fatasil Ambari P.S. Case No.125/2022**) under Sections **20(b)(ii)(c)** of the N.D.P.S. Act.

It may be mentioned that the earlier bail application of the accused petitioner being Bail Appln No.381/2023 was rejected by this Court vide order, dated 10.05.2023.

Mr. A. Dutta, learned counsel for the accused petitioner, submits that the accused petitioner has been in judicial custody since 13.06.2022 despite being innocent. Mr. Dutta also submits that out of the listed 6(six) prosecution witnesses the learned Court below has examined 3(three) P.Ws so far. Mr. Dutta further submits that while rejecting the earlier bail application of the accused petitioner this Court directed the learned trial Court to complete recording of evidence of the remaining prosecution witnesses within a period of 4(four) months and that after expiry of the aforesaid period it was directed to consider the liberty of bail of the accused petitioner, if applied for.

The case relates to recovery and seizure 36 kgs. of suspected ganja from the possession of the accused petitioner.

It is noticed that the accused petitioner has been in judicial custody since 13.06.2022, i.e. for 467 days.

This Court by order, dated 10.05.2023 passed in the earlier Bail Application No.381/2023 directed as hereinbelow extracted-

“However, the learned Trial Court shall make an endeavour to complete recording of evidence of the remaining five prosecution witnesses within a maximum period of four months. After expiry of the aforesaid period or before such expiry, if the prosecution witnesses are examined, the learned Trial Court shall consider the liberty of bail of the accused petitioner, if applied for.

With the above direction, the bail application stands disposed off.”

Upon hearing the learned counsel for both sides and considering the grounds cited in the petition along with the documents annexed thereto, this Court is of the opinion that if the accused petitioner is released on bail the remaining part of trial of

the case is unlikely to be adversely affected.

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 sureties of like amount to the satisfaction of the learned **Special Judge (NDPS Act), Kamrup(M), Guwahati** 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;
- iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; and
- iv) That out of the two sureties, one must be a government servant 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.

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