

GAHC010217362023



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

Case No. : Bail Appln./3446/2023

PINTU KUMAR YADAV @ PINTU KUMAR
S/O- SHIV KUMAR YADAV, R/O- VILL- SAMPACHAK BAZAR, PO-
GOPALPUR, POLICE STATION- SONAGOPALPUR, DIST- PATNA, BIHAR

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 27.09.2023

Heard Mr. M.A.Choudhury, learned counsel for the accused petitioner as well as Mr. D.P.Goswami, learned Additional Public Prosecutor, Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Pintu Kumar Yadav @ Pintu Kumar** has prayed for grant of bail in connection with **Special (NDPS) Case No. 33/2022** pending in the Court of learned Special Judge, Karimganj arising out of **Badarpur G.R.P.S. Case No.15/2022** under Sections under Section 20 (b) (ii) (c) of the

NDPS Act.

The scanned copy of the case records is received.

The prosecution case reveals that 32 Kgs of suspected cannabis (ganja) was recovered and seized from the possession of the present accused petitioner and another co-accused person.

It is noticed that the accused has been in judicial custody since 27.02.2022 i.e. for 577 days.

A perusal of the case record reveals that the charges were framed under Section 20(b) (ii) (c) of the NDPS Act against the present accused petitioner and another co-accused person vide order, dated 09.09.2022 by the learned trial court. Vide seizure memo, it reveals that 32 Kgs of suspected cannabis was recovered and seized from the collective possession of the accused persons. The FSL report gave positive tests for Cannabis (Ganja). No witness is examined till date.

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 in judicial custody for 570 days, is released on bail, the remaining part of the trial is unlikely to be hampered.

Accordingly, the prayer for bail of the present accused petitioner may be considered favourably.

Accordingly, it is provided that the accused petitioner, named above who hails from State of Bihar shall be released on bail of **Rs. 1, 00,000/- (One Lakh) with 2 (two) sureties** of like amount to the satisfaction of 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; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the prosecution witnesses; and
- iii) That the accused petitioner shall refrain from committing any

similar offences in future, of which he is accused of commission;

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 bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant