

GAHC010223162022



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

Case No. : Bail Appln./2898/2022

BIKRAM DEBBARMA
SON OF LATE BISWA CHANDRA DEBBARMA
R/O WARD NO. 3,
VILL- MAIKHARPARA, P.S. AND P.O. LEFUNGA
DIST. WEST TRIPURA
TRIPURA-799211

VERSUS

NARCOTICS CONTROL BUREAU (NCB)
REP. BY THE NCB.

Advocate for the Petitioner : MR N J DAS

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

25.04.2023

Heard Mr. N.J. Das, learned counsel appearing for the accused petitioner as well as Mr. S.C. Keyal, learned Standing Counsel, NCB.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Bikram Debbarma** has prayed for grant of bail in connection with **NDPS Case No. 5/2022** under Sections **8(c)/20(b)(ii)(c)/29** of the NDPS Act, 1985 pending in the Court of learned Special Judge (NDPS Act), Kamrup at Amingaon arising out of **NCB Crime No.17/2021**.

The scanned copy of the case record is placed before the Court.

Mr. N.J. Das, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in judicial custody since 23.07.2021 on a false accusation of having possessed 537 kg of ganja. Mr. Das further submits that although the N.C.B. filed the Final Complaint on 13.01.2022, no trial has commenced till date. Mr. Das also submits that the only evidence against the accused petitioner is based on the co-accused's statement, which is not admissible as incriminating evidence against him in view of the *Tofan Singh's* judgment of the Hon'ble Supreme Court.

Per contra, Mr. S.C. Keyal, learned Standing Counsel for the N.C.B. submits that the case is of serious nature and presently pending for appearance of the 04(four) co-accused persons, who are absconding. Mr. Keyal, however, suggests that in order to avoid further delay in commencement of trial and as the accused has been in judicial custody, his case may be directed to be split up instead of granting bail.

The case relates to recovery and seizure of 537.26 kg of ganja from a truck bearing registration No.HR-55U-6974 at NH-37 in front of Narayana Superspeciality Hospital, Amingaon.

It is noticed that the accused petitioner has been in judicial custody since

23.07.2021, that is, for 642 days.

A perusal of the case record reveals that the Final Complaint was submitted against the present accused and 08(eight) others showing 04(four) of them absconding for commission of the alleged offences under Section 8(c), punishable under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

The case record reveals that the Final Complaint was filed on 17.01.2022 and it is pending at the appearance stage of some of the co-accused persons.

Therefore, in view of the bar under Section 37 of the N.D.P.S. Act, this Court is of the opinion that the accused cannot be released on bail.

Accordingly, the bail application stands **rejected** with direction to the learned trial Court to split up the case of the accused petitioner and proceed with his trial, if found prima facie material to frame charges, after following the prescribed procedure, that is, in accordance with law.

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

JUDGE

Comparing Assistant