

GAHC010231272022



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

Case No. : Bail Appln./3063/2022

DILBOR ALI
S/O SOKER MOLLAH,
AND R/O VILL- DEWANER ALGA, P.S. SUKCHAR IN THE DISTRICT OF
SOUTH SALMARA MANKACHAR, 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 AJIT BORTHAKUR

ORDER

21.03.2023

Heard Mr. S. Das, learned counsel appearing for the accused petitioner as well as Mr. R. J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Dilbor Ali**, has prayed for grant of bail in connection with **Special (N) Case No. 55/22 under Section 22(C) of NDPS Act arising out of South Salmara P.S. Case No.187/2022** registered under Section **22(c) of the NDPS Act**.

The scanned copy of case diary along with case record, as called for, is placed before the court.

Mr. S. Das, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in judicial detention for 314 days despite being innocent. Mr. Das further submits that after framing of charge under Section 22(C) of the N.D.P.S. Act for alleged possession of W.Y. tablets numbering 6000, containing weight of 615 grams, no witness is examined. Mr. Das, therefore, submits that subject to any condition, the accused may be directed to be released on bail.

Per contra, Mr. R. J. Baruah, learned Additional Public Prosecutor, submits that 3(three) prosecution witnesses out of listed 5(five) prosecution witnesses are examined in this case. Therefore, Mr. Baruah submits that at the fag end of trial of the case, the bail application may not be considered favorably.

The case relates to recovery and seizure of W.Y. tablets numbering 6000, containing weight of 615 grams from the possession of the accused petitioner.

A perusal of the case record reveals that a charge under Section 22(C) of the N.D.P.S. Act has been framed vide order dated 03.11.2022. Thereafter, 03(three) prosecution witnesses are examined till 04.01.2023. There is a list of 5(five) prosecution witnesses.

The record shows that the seized tablets contained Methamphetamine vide FSL report in commercial quantity.

On reading of the evidence so far recorded in the case, it cannot be said that the accused is not guilty of the alleged offence subject, however, to final outcome of trial.

Although, normally there is a bar contained in Section 37 of the N.D.P.S. Act in granting bail in such cases, having considered the substantial progress in trial and the accused being a resident under Sukchar P.S., his bail application may be accepted.

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 2(two) sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), South Salmara** subject to the following conditions-

- (i) That the accused petitioner shall cooperate with the Investigating Officer as and when required;
- (ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court; and
- (iii) That the accused petitioner shall refrain from committing any similar offence in future of which he is accused or suspected of commission.

This disposes of the bail application.

JUDGE

Comparing Assistant