

GAHC010233972023



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

Case No. : Bail Appln./3708/2023

GAUTAM NAYAK
S/O. LT. GAKUL NAYAK,
VILL.- KHANIKAR GAON, P.O. SARUPATHAR,
P.S- SARUPATHAR, DIST. GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM.

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 29-11-2023

1. Heard Mr. M A I Hussain, learned counsel for the applicant and Mr. P Borthakur, learned Addl. PP, appearing for the State of Assam.
2. This application under section 439 of the Code of Criminal

Procedure, 1973 is preferred by accused, namely, **Gautam Nayak** who was arrested on 30.09.2023 and was produced before the jurisdictional Magistrate on 01.10.2023 in connection with the **Barpathar PS Case No.48/2023** under sections **21(b)/27/29** of the NDPS Act.

3. The case diary called for is received and the same is perused.

4. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this case. Investigation is almost over and the accused person is thoroughly interrogated by the investigating agency. There is no legal evidence against the present applicant to connect him with the alleged offence. The learned Counsel further submits that the applicant is in custody since 30.09.2023 and the conclusion of trial will take sufficient time and also that till date no charge sheet has been filed. On the aforesaid grounds, prayer is made to release the applicants on bail.

5. Learned Additional Public prosecutor for the state has seriously opposed the application and prayed for its rejection.

6. Considering the fact that the alleged contraband recovered is of intermediate quantity and the investigation is at the fag end, however, no charge sheet has been filed. Accordingly, this Court is of the opinion that further custodial detention of the applicant is not required inasmuch as he is in custody for the last 59 days. Accordingly, the present application is allowed.

7. Accordingly, it is directed that the applicant, above named, in connection with the aforementioned case be released on bail on his

furnishing a bond in the sum of Rs.25,000/- (Rupees twenty five thousand only) with one solvent surety of the like amount to the satisfaction of the learned Special Judge, Golaghat, with the following conditions:

- I. The applicant shall not leave the territorial jurisdiction of the Sub-Divisional Judicial Magistrate (M), Dhansiri without prior written permission from its officer in charge;
- II. The applicant shall not hamper with the investigation of the case and tamper with the evidence of the case;
- III. The applicant 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 them from disclosing such facts to the court or to any police officer.
- IV. The applicant shall surrender his passport, if any, (if not already surrendered) before the Sub Divisional Judicial Magistrate (M), Dhansiri, Assam;
- V. The applicant shall not try to contact any of the witnesses by any mode including telephone, social media etc;
- VI. The applicant shall furnish the present residential address with proof to the Investigating Officer as well as to the learned trial Court below and shall not change the said residence without prior permission of the learned trial court.
- VII. The applicant shall appear before the I.O., on the 1st day of every week.
- VIII. The applicant shall appear before the learned trial court below on each and every date of appearance during trial.

8. In terms of the above, this bail application stands disposed of.
9. Return the case diary.

JUDGE

Comparing Assistant