

GAHC010234852023



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

Case No. : Bail Appln./3762/2023

NUR MAHAMMAD SK
S/O BACCHU SK.
R/O VILL- KHUDIMARI PART-II
P.S. GAURIPUR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

O R D E R

20.12.2023

1. This is an application filed under Section 439 of the Code of Criminal Procedure for granting regular bail to the petitioner, namely, Nur Mahammad Sk, who was arrested on 04.08.2022 in connection with Gauripur P.S. Case No. 259/2022 under Section 22(C) of NDPS Act, 1985.

2. Heard Mr. S.A. Ahmed, learned counsel appearing on behalf of the petitioner as well as Mr. B. Sarma, learned Addl. P.P. appearing for the State respondent.

3. The case of the prosecution in brief is that one Asen Boro, SI of Gauripur Police Station lodged a FIR on 29.05.2022 to the effect that the informant had received an informant from the reliable source that one person anmely Anowar Hussain @ Bihari is about to supply contraband in N.H. 31 in Alomganj Bazar. After making G.D. Entry, the police party proceeded to the said location and after reaching the destination, they apprehended one person, who was trying to flee with Pulsar bike and other person fled away from the scene. After interrogation, it was revealed that the person apprehended is one Najimul Hoque. Later, the accused person Najimul Hoque was apprehended with suspected heroine of 13.84 grm along with a pulsar bike bearing registration no.

AS-17-M-0403 and a mobile handset. After deliberate chase, another accused person has been managed to apprehend namely, Ali Hussain. Accordingly, the case was registered.

4. Mr. S. A. Ahmed, learned counsel for the petitioner submits that the petitioner is not named in the FIR and that he is falsely implicated in this case. He further submits that in course of investigation based on confession of earlier forwarded co-accused, the present petitioner is suspected to be the person to whom the co-accused has supplied the contraband articles.

5. In view of the above, he submits that the said contraband articles had not been recovered from the possession of the petitioner.

6. On the other hand, Mr. B. Sarma, learned Addl. P.P. strongly opposes the prayer of the bail and submits that the accused person was fully aware of the contraband articles seized and hence have conscious position of the same.

7. I have heard the submissions at the Bar and perused the case records. From the case records placed before this Hon'ble Court, it appears that though the petitioner is not named in the FIR, during the course of investigation, it has come to light that the co-accused persons have been regularly supplying the contraband articles to the petitioner for disturbing the same to the regular addicted youths as well as small drug paddlers.

8. There are materials available on record from where it transpires that the accused/petitioner was caught red-handed with the contraband articles from his possession, which was hidden under his bag.

9. Situated thus, I am not inclined to grant bail at this stage. Accordingly, the bail application stands rejected.

10. It is needless to say that the observations made herein are attempted to

and only for the purpose of considering the bail prayer made in this petition.

JUDGE

Comparing Assistant