

GAHC010235292022



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

Case No. : Bail Appln./3154/2022

VINOD KUMAR DOOHUN
S/O SRI AZAD SINGH DOOHUN
R/O GOLI NO. 01, LAXMAN VIHAR PHASE-2,
GURGAON, P.S. AND DIST. GURGAON/GURUGRAM, HARYANA, PIN-122001

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N HASAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 11.04.2023

Heard Mr. N Hasan, learned counsel for the accused petitioner as well as Mr. RJ Baruah, learned Additional Public Prosecutor, Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Vinod Kumar Doohun** has prayed for grant of bail in connection with **NDPS Case No. 55/2021** arising

out of Dibrugarh PS Case No. 2036/2021 u/S 21 (c) /27A/28/29 of NDPS Act r/w Section 201/204 of the IPC.

Scanned copy of case records is received.

Mr. N Hasan, learned counsel for the accused petitioner, submits that the accused has been languishing in judicial custody for 532 days despite no incriminating evidence has come in the completed evidence of 7(seven) prosecution witnesses out of 13 listed witnesses. Mr. Hasan further submits that there is no possibility to complete the trial of the case at the earliest. Mr. Hasan, learned counsel for the accused petitioner relied on the ratio of the judgment rendered by the Hon'ble Supreme Court in the case of *Mohd. Muslim @ Hussain –vs- State (NCT of Delhi)* in Special Leave Petition (Crl.) No(s).915 of 2023 and in case of *Chanchal Nag @ Tinku –vs- State of Assam* in Bail Application 157/2023 passed by this Court.

Per contra, Mr. RJ Baruah, learned Additional Public Prosecutor submits that the case record shows that it is upto 12.12.2022 and as such, updated case record is necessary. Mr. Baruah further submits that after 12.12.2022, dates were fixed for evidence of the remaining prosecution witnesses. On the other hand, Mr. Boruah submits that the accused is accused in a serious case of transportation/ possession of heroin amounting to commercial quantity and in view of the bar in Section 37 of the NDPS Act, the bail application of the accused may not be accepted.

The FIR reveals the allegation that based on reliable information, the informant along with his staff during Naka Checking recovered and seized 269 grams of heroin from a vehicle bearing registration No. NL-11-2673.

It is noticed that the accused petitioner is in judicial custody for 532 days since 26.10.2021. A perusal of case record reveals that charges under Sections 27 A of the NDPS Act and under Sections 201/204 of the IPC were framed against the accused petitioner vide order, dated 05.03.2023 and thereafter, the prosecution has examined 8 (eight) witnesses out of 13 (thirteen) listed witnesses till 30.11.2022 despite granting several opportunities to produce the witnesses by the prosecution.

On scrutiny of the evidence of the prosecution witnesses, it can *prima facie* be said that there is sufficient incriminating materials against the accused subject, of course, to final

outcome on completion of trial of the case. This court is conscious of the bar in granting bail to accused involved in trafficking of commercial quantity of drugs provided in Section 37 of the NDPS Act. However, considering the length of detention in judicial custody, this Court is of the considered opinion that further continuation of detention of the accused petitioner, who is a resident of Haryana, is not warranted for the purpose of completion of trial of the case and as such, prayer for bail is granted.

According, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 1,00,000/- (One Lakh) only** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (NDPS Act), Dibrugarh** 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 remaining prosecution witnesses; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is accused of commission; and
- 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 of bail shall render cancellation of bail in accordance with law.

The learned trial court is directed to expedite trial of the case.

This disposes of the bail application.

JUDGE

Comparing Assistant