

GAHC010242572023



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

Case No. : Bail Appln./3886/2023

SAHEB RAJAK
S/O- LATE GATU RAJAK @ GATU RAJAQUE, R/O- SIMARITUK, P.S-
BARAUNI, DIST- BEGUCHARAI, BIHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 15-12-2023

Heard Ms. P. Borah, learned counsel for the Petitioner Saheb Rajak. Also heard Mr. B.B. Gogoi, learned Addl. P.P., Assam for the State Respondent.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail as he is in jail since 15.05.2023 in connection with NDPS Case No. 41(H)/2023 arising out of Lumding P.S. Case No. 181/2022 registered under Section 20(C) of the

Narcotic Drugs and Psychotropic Substances Act, 1985.

3. It is submitted that charge-sheet has been laid against the petitioner on 31.05.2023.
4. The FIR unfolds that police recovered 29.030 KG Ganja inside the water tank of Coach S3 of Train No. 15626 Agartala-Deoghar Express which arrived at Lumding Railway Station. It is submitted that the FIR was lodged on 13.11.2022 but the petitioner was undergoing treatment at Mathura Refinery Hospital on 15.11.2022. The petitioner came to Lumding from Begucharai on 08.12.2022 for obtaining 'Free moving Pass'.
5. The Seizure List marked as Annexure-D reveals that the petitioner was not present at the time of seizure of the articles. It is also submitted that the petitioner is a retired Railway Employee who is suffering from Kidney problem. He is also languishing in jail from 15.05.2023. The learned Addl. P.P. has raised objection against the prayer for bail. I have considered the submissions at the bar with circumspection. The petitioner is 68 years old and a retired person. I have also considered the submission that the petitioner is willing to cooperate with the trial. The seizure list at column 6 reflects that the petitioner was not present at the time when the articles were seized from the S3 water tank of Coach S3 of Train No. 15626 Agartala-Deoghar Express.
6. I have also considered the fact that one co-accused has been granted bail by this Court on 01.12.2023 in connection with Bail Application No. 3887/2023. The petitioner was arrested after 6 (six) months from the date of lodgement of the FIR. 29.030 kgs of Ganja was found from the Agartala-Deoghar Express.
7. The Co-ordinate Bench of this Court while granting bail in bail application No. 3887/2023 has also observed that :-
"Now coming to the other aspect of the matter is that there is no likelihood of the petitioner committing any further similar offence, this Court is of the view that such anxiety of the prosecution can be redressed if stringent conditions are imposed while granting bail"
8. Considering all aspects, the bail application is allowed. The petitioner is enlarged on bail on executing a bail bond of Rs. 1,00,000/- (Rupees One Lakh) only with two local sureties of like amount to the satisfaction of the learned Special Judge, Hojai under the following conditions :-
 - i. The petitioner shall not hamper and tamper with the evidence of the case;
 - ii. The 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 Court or to any Police Officer;
 - iii. The petitioner shall not try to contact any of the witnesses by any mode including telephone, social media etc.;
 - iv. The petitioner shall furnish the present residential address with proof to the learned trial Court below and shall not change the said residence without prior permission of the learned trial Court.

The learned trial Court may impose further conditions if the Court deems fit and proper.

With the above terms and conditions, this bail application is disposed of.

JUDGE

Comparing Assistant