

GAHC010250072023



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

Case No. : Bail Appln./4036/2023

SIRAJUL ISLAM @ MAGUR
S/O MD. KASHIM ALI
R/O CHARAIBAHI MUSLIM GAON
P.O. CHARAIBAHI
P.S. JORHAT
DIST. JORHAT, ASSAM
PIN-785616

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U K DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 17-11-2023

Heard Mr. U K Deka learned counsel for the accused and Mr. K K Parashar, learned Addl. PP, Assam.

This application under section 439 Cr.P.C preferred by accused Md. Sirajul Islam @ Magur, who has been languishing in jail hajot in

connection with Jorhat PS Case No.473/2023, under section 21(b)/25 of the NDPS Act for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one Shri Sanjib Tamuli, on 07.10.2023. The essence of allegation made in the FIR is that acting on a tip off on that day at about 9.30 PM, the informant along with staff conducted search in the rented house of Sirajul Islam at Rowriah (NEFA) Tiniali and recovered 12 numbers of tobacco container, containing powdery substances, suspected to be heroine weighing 10.48 gms and also recovered a sum of Rs.26,020/-

Mr. Deka the learned counsel for the accused submits that the accused was arrested on 07.10.2023, and he is behind the bar for the last 41 days. Further, Mr. Deka submits that the house, from where the contraband substances were allegedly recovered, was not the house of the accused and that he is innocent and no way involved with the offence alleged in the FIR, and therefore, it is contended to allow the petition.

On the other hand the learned Addl. PP has produced the case diary before this Court and submits that the quantity of contraband substance recovered from the possession of the house of the accused is 10.48 gms and a sum of Rs.26,020 also recovered from his house and the accused has admitted that he has been doing such business regularly. Further, Mr. Parashar submits that some of the co accused are yet to be arrested and the FSL report has also not yet been collected, and therefore, Mr. Parashar has opposed the petition.

Having heard the submission of learned Advocates for both the sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Parashar, learned Addl. PP.

It is not in dispute that the quantity of contraband substance

allegedly recovered from the house of the accused is of intermediate quantity and as such the rigors of section 37 of the NDPS Act is not applicable here in this case.

Further it appears that the IO has achieved substantial progress in the investigation of this case. The accused is behind the bar for 41 days. And considering the nature and gravity of the offence and the punishment prescribed for the same, and balancing the same with the period of detention, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Special Judge, NDPS Act, Jorhat the accused be enlarged on bail.

The case diary be returned.

JUDGE

Comparing Assistant