

GAHC010250292023



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

Case No. : Bail Appln./4028/2023

MD. SAIDUL ANSARI @ SADUL ANSARI
S/O MD. AIM SHEKH
R/O TINPAHAR, P.S. TINPAHAR
DIST. SAHABGANJ (JHARKHAND)

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.12.2023

Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Md. Saidul Ansari @ Sadul Ansari, who has been detained behind the bars since 11.01.2023 (for last 331 days) in

connection with NDPS Case No.62/2023 under Section 20(b)(ii)(C) of NDPS Act arising out of Guwahati G.R.P.S. Case No.06/2023 under Section 20(b)(ii)(C) of NDPS Act read with Section 380 of Indian Penal Code.

Mr. S. Munir, learned counsel for the petitioner has submitted that the petitioner is facing a trial under Section 20(b)(ii)(C) NDPS Act, 1985 read with Section 380 of Indian Penal Code before the Court of learned Special Judge, Kamrup (Metro) and that though the charge against the present petitioner was framed on 07.07.2023, not even a single witness has been examined till date. Hence, the petitioner has prayed for allowing him to go on bail on the ground of long period of detention.

On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam submits that the quantity of contraband seized from the present petitioner is of commercial quantity and therefore, the embargo of Section 37 of NDPS Act, 1985 comes into play. She also submits that the detention of the present petitioner is not long enough to get the benefit of prolonged incarceration of the present petitioner and therefore, she opposes the present application for grant of bail to the petitioner.

I have considered the submissions made by the learned counsel for both the sides and perused the material on record.

Apparently, the case of the present petitioner is regarding possession of commercial quantity of *ganja* and therefore, the embargo of Section 37 of the NDPS Act, 1985 comes into play. Regarding the long detention also the petitioner has not been able to show any authority that the period of 331 days is long enough period to give benefit of prolonged incarceration to the petitioner as the embargo of Section 37 of NDPS Act, 1985 is applicable to the case of the present petitioner.

This Court is constrained to reject the prayer for bail at this stage. However, considering the period of detention of the present petitioner, an observation is made hereby that the learned Trial Court may take steps to expedite the trial of the present petitioner and dispose of the NDPS Case No.62/2023 as early as possible.

A copy of this order be furnished to the learned Trial Court by the Registry.

With these observations, this bail application is disposed of.

JUDGE

Comparing Assistant