

GAHC010253862023



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

Case No. : Bail Appln./4076/2023

ANISUR KHAN
S/O ABDUS SATTAR KHAN
VILL- PAKHAKATA
P.O. NASATRA
P.S. MERERCHAR
DIST. BONGAIGAON, ASSAM
PIN-783384

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 10-11-2023

Heard Mr. M Ali, learned counsel for the petitioner. Also heard Ms. SH Borah, learned Additional Public Prosecutor appearing for the State respondent.

This is an application made under Section 439 Cr.PC, seeking bail by the accused petitioner, **Anisur Khan**, in connection with Abhayapuri P.S. Case No.

482/2023, under Sections 21(a)/29 of the NDPS Act (corresponding to NGR No. 829/2023).

It is submitted by the learned counsel for the petitioner that small quantity of suspected heroin has been recovered from the possession of the accused petitioner and a case was registered under Sections 21(a)/29 of the NDPS Act, which is a bailable offence. The accused petitioner was arrested on 24.10.2023 and since the last 17 days, he has been languishing in the judicial custody. It is further submitted by the learned counsel for the petitioner that anticipatory bail and regular bail have been granted by a co-ordinate Bench of this Court to similarly situated persons vide AB No. 1654/2020 dated 15-07-2020 and BA No. 472/2023 dated 13-02-2023 respectively. Therefore, he prays that the present accused petitioner should be granted bail on similar footing.

On the other hand, the learned Additional Public Prosecutor has objected to the grant of bail and submitted that bail may be considered after going through the case diary by stating that as per Section 37 of the NDPS Act all the offences are non-bailable.

Therefore, on considering the submissions made by the learned counsel for the petitioner and on perusing the orders passed by this Court earlier and in view of the fact that Section 21(a) of the NDPS Act is a bailable offence, the accused petitioner is granted bail.

Accordingly, the accused petitioner, named above, shall be released on bail in connection with the aforementioned case, on furnishing a bail bond of Rs. 30,000/- with one suitable surety of the like amount to the satisfaction of the learned Special Judge, North Salmara, Abhayapuri.

The direction for bail is further subject to the conditions that the accused-

petitioner:-

- (a) shall not leave the territorial jurisdiction of the learned Special Judge, North Salmara, Abhayapuri without prior written permission from him/her,
- (b) shall not hamper with the investigation or tamper with the evidence of the case,
- (c) 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, and
- (d) shall appear before the Investigating Police Officer once in a week for six weeks after his release on bail or as and when called upon by the Investigating Police Officer till the investigation of the case is completed.

In case of violation of any of the above conditions by the accused-petitioner, the learned Public Prosecutor is at liberty to move before this Court for cancellation of bail.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant