

GAHC010257052022



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

**Case No. : Bail Appln./3532/2022**

SAMSUDDIN ALI  
S/O TAZNUR ALI  
R/O VILL- SAPKATA  
P.S. MUKALMUA  
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. S A AHMED**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**  
**ORDER**

**18.01.2023**

Heard Mr. S.A. Ahmed, learned counsel for the accused and Mr. R.J. Barua, learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973,

is preferred by accused, namely, Md. Samsuddin Ali, who has been languishing in jail hazot in connection with the Mukalmua P.S. Case No. 307/2022, under Section 22[C] of the NDPS Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one SI Monoranjana Singha, on 10.06.2022, to the effect that acting on a tip off they have conducted search in the house of Samsuddin Ali on 10.06.2022, at about 8 pm and recovered 86 bottles of suspected manufactured drug [codine phosphate syrup] and the seized the same preparing seizure list, in presence of witnesses.

4. Mr. Ahmed, learned counsel for the accused submits that the accused was arrested on 10.06.2022, and since then he is behind the bar for 220 days and though this court was pleased to call for the scanned copy of the record as well as the updated status report from the court of learned Special Judge, NDPS Act, Nalbari, vide order dated 19.12.2022, as on that day the learned Addl. P.P. submitted before this court that the IO has already laid charge sheet, being charge sheet No. 316/2022, dated 30.09.2022 before the learned court below, but, as per the report of the learned court below dated 11.01.2023, no charge sheet has been submitted before the said court and as the IO failed to submit charge sheet before the learned court below within the stipulated time period of 180 days, the accused is entitle to default bail.

5. On the other hand Mr. Barua, learned Addl. P.P. submits that as per the information received by him from the IO, charge sheet has already been submitted and the same is forwarded to the office of the Superintendent of Police, Nalbari. But, Mr. Barua submits that the report of the learned Special Judge, NDPS Act, Nalbari, dated 11.01.2023 is contradictory to the information received by him.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on record and it is not

in dispute that the accused was arrested on 10.06.2022, and he is behind the bar for last 220 days and as per the report of the learned Special Judge, NDPS Act, Nalbari, dated 11.01.2023, no charge sheet has been submitted by the IO till 11.01.2023.

6. In view of the above the accused entitled to default bail under section 167[2] Cr.P.C.

7. Accordingly it is provided that on furnishing a bond of Rs. 1,00,000/- only with one surety of like amount to the satisfaction of the learned Special Judge, NDPS Act, Nalbari, the accused be enlarge on bail.

7. In terms of above this BA stands disposed of.

**JUDGE**

**Comparing Assistant**