

GAHC010261852022



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

**Case No. : Bail Appln./3561/2022**

SHILA  
D/O LATE SANI  
R/O VILL- TENYIPHE 1, 6TH MILE,  
P.S. AND P.O. CHUMUKEDIMA  
DIST. DIMAPUR, NAGALAND.

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. S MUNIR**

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

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**10.03.2023**

Heard Mr. S. Munir, learned counsel for the accused petitioner as well as Mr. RJ Baruah, learned Addl. P.P., Assam for the State respondent.

2. By this petition under Section 439 Cr.P.C., the accused/petitioner, namely

**Smt. Shila** has prayed for grant of bail in connection **Special(NDPS) Case No. 25/2022** arising out of **Bokajan PS Case No. 08/2022** u/s **21(c)/24/29** of the NDPS Act pending in the Court of learned Special Judge (NDPS Act), Karbi Anglong, Diphu.

3. The scanned copy of the case record along with the case diary, as called for, is placed before the Court.

4. The matter relates to recovery and seizure of total 660.35 grams of heroin from the possession of the accused petitioner and another.

5. A perusal of the case record, it is revealed that the charges against the accused petitioner along with another were framed under Sections 21(c) read with Section 29 of the NDPS Act vide order, dated 09.05.2022. Thereafter, as many as 6(six) prosecution witnesses out of 8(eight) listed witnesses are examined by the learned trial Court till 14.11.2022. As per record, lastly, 20.01.2023 was fixed for further evidence of the prosecution side. The record does not reveal as to whether on 20.01.2023 or thereafter, till date, the remaining two prosecution witnesses are examined or not.

6. By order, dated 10.01.2023, a health status report of the accused petitioner was called for from the Superintendent of District Jail, Karbi Anglong at Diphu and accordingly, a report is submitted. The medical report shows that due to certain disease the accused petitioner has been suffering, she was advised to undergo an operation at AMCH, Dibrugarh, but she refused.

7. Mr. S. Munir, learned counsel for the accused petitioner, submits that the accused petitioner was told by the attending doctor that there is no proper medical facility for surgery of the nature of disease the petitioner has been suffering from and as such, she out of fear refused to undergo operation at the

AMCH, Dibrugarh. Mr. Munir therefore, submits that at least an interim bail for a specified period may be granted so as to enable the accused petitioner to undergo the required surgery subject to any condition(s) including furnishing of surety who is/are employees of the Government of Assam. Further, Mr. Munir submits, that as the substantial part of evidence has already been recorded in the case, there is no chance of the accused petitioner hampering or tampering the evidence of the remaining 2(two) witnesses.

8. Mr. RJ Baruah, learned Addl. P.P., submits that the accused petitioner hails from Manipur and if deemed necessary, she may be directed to be hospitalized at an advanced hospital somewhere in Assam for the purpose of surgery. Mr. Baruah emphatically submits that in view of the restrictions provided in Section 37 of the NDPS Act, the bail application of the accused petitioner may not be considered favourably.

9. A perusal of the case record including the evidence of the 6(six) prosecution witnesses so far examined, it is revealed that there are no reasonable grounds for believing that the accused petitioner was not guilty of the offence of trafficking in commercial quantity of heroin. The case is at the fag end of trial.

10. It may be noted that the nature of treatment/surgery required for the accused petitioner is available in the state of Assam, more particularly, in Guwahati Medical College and Hospital and in other super specialty hospitals.

11. Therefore, it is provided that the Superintendent, District Jail, Diphu shall make necessary arrangement for appropriate treatment of the accused

petitioner in any of the above mentioned well equipped advanced hospitals at Guwahati at state expense at the earliest, preferably within a period of **15(fifteen) days** as per doctor's advice.

12. After completion of medical treatment as directed above, a report in this regard shall be submitted to the learned Special Judge (NDPS Act), Karbi Anglong at Diphu. It is further provided that during the period of absence of the accused petitioner due to medical treatment, the learned trial Court shall allow the learned defence counsel to examine the prosecution witnesses who may appear during the aforesaid period so that trial of the case is not delayed.

Hence, the bail application stands **rejected**.

This disposes of the bail application.

**JUDGE**

**Comparing Assistant**