

GAHC010265412022



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

Case No. : Bail Appln./3628/2022

AKASH BORGHAIN AND ANR
S/O- LT. KESHAB BORGHAIN, R/O- VILL- GOHAINGAON, P.S. DHEMAJI,
DIST.- DHEMAJI, ASSAM

2: BINUD BORAH
S/O- LT. HUMBOR BORAH
R/O- TANGANAPARA
WARD NO. 3
P.S. DHEMAJI
DIST.- DHEMAJI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. P HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06-01-2023

Heard Mr. P Hazarika, learned counsel for the applicant and also
heard Mr. BB Gogoi, learned Addl. PP, appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by accused , **1. Akash Borgohain & 2. Binud Borah** who have been languishing in jail hajot in connection with **Dhemaji PS Case No.168/2022**, under section **21(b)/29 NDPS Act**, since 23.11.2022, for grant of bail.

The said case has been registered on the basis of an FIR lodged by WSI (P) Geetanjali Borborah of Dhemaji PS, on 22.11.2022, to the effect that on the same day at about 11.00 AM, she has apprehended two persons, namely, Akash Borgohain and Binud Borah from Tanganapara, Ward No.3 of Dhemaji Town and recovered 12.03 gms of suspected narcotic drugs (brown sugar) from their possession and seized the same, preparing seizure list in presence of witnesses.

The learned counsel for the accused submits that the accused have been arrested on 23.11.2022, and since then, they have been languishing in jail hajot for the last 44 days, and further Mr. Hazarika submits that the contraband substance recovered from the possession of the accused is less than the intermediate quantity and that the accused persons are ready to face trial and cooperate with the investigating agency and therefore, it is contended to allow this petition.

On the other hand, Mr. Gogoi, learned Addl. PP has produced the case diary before this Court and submits that the quantity of the brown sugar recovered from the possession of the accused persons is 1.40 gms, which is a small quantity and that the IO has collected some materials against them and therefore, Mr. Gogoi opposed the petition.

Having heard the submission of learned Advocate for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of learned Addl. PP and it appears that the accused was languishing in jail hajot since 23.11.2022, and that the contraband substance recovered from their

possession is small quantity i.e., 1.40 gms, as it appears from the seizure list.

In view of the progress of investigation and also in view of the materials collected so far in the case diary and also the nature of accusations and the punishment prescribed for the same, specially, the quantity of brown sugar recovered from their possession and also the length of detention, this Court is inclined to allow this petition. And accordingly, it is provided that on furnishing a bond of Rs.25,000/- each, with one surety of the like amount, to the satisfaction of the learned Special Judge, NDPS Act, Dhemaji, both the accused be enlarged on bail.

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

The case diary be returned.

JUDGE

Comparing Assistant