

GAHC010268152022



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

Case No. : Bail Appln./3642/2022

ARIJIT DEB
S/O- SRI ASHISH KUMAR DEB, R/O- H.NO. 26-B, HARIMANDIR PATH,
KRISHNA NAGAR, P.O. BASISTHA, P.S. BASISTHA, DIST.- KAMRUP (M),
ASSAM

VERSUS

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

Advocate for the Petitioner : MS D BORGOHAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06-01-2023

Heard Ms. D Borgohain, 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, **Arijit Deb**, who has been languishing in jail hajot in connection with **Basistha PS Case No.1035/2022**, under section **21(a)/29 NDPS Act**, since 14.12.2022, for grant of bail.

The aforementioned case has been registered on the basis of an FIR lodged by SI Mukunda Sarmah of Basistha PS, on 04.12.2022, to the effect that acting on a tip off, he has apprehended three persons, namely, Vicky Sonar, Sanjay Kumar Shah and Dipankar Bhuyan of Kerakuchi, near Hockey stadium and recovered 8 numbers of plastic container with suspected heroine measuring 3.12 gms (without container) from their joint possession and also recovered two numbers of syringes, and seized the same in presence of witnesses and on the basis of their statement, accused Arijit Deb is arrested and forwarded to jail hajot.

The learned counsel for the accused submits that as per the seizure list, which is enclosed with the petition as Annexure – 3, the quantity of contraband substance recovered from the possession of the co-accused is only 1.35 gms and nothing has been recovered from the possession of the present accused, and the accused has not been named in the FIR and also he is behind the bar for the last 24 days and the punishment prescribed for the offence under section 21(a) is only one year or with fine or both and the accused is pursuing B.com under IGNOU and therefore, it is contended to allow the petition.

On the other hand, Mr. BB Gogoi, learned Addl. PP submits that though the case diary was called for, the same has not been received. But Mr. Gogoi, learned Addl. PP, referring to the seizure list, which is available with the record submits that the quantity of contraband

substance recovered from the possession of the accused person is 1.32 gms and the same is of small quantity.

Having considered the submission of learned Advocates for both the sides and also considering the nature of accusation and the punishment prescribed for the same, specially the quantity of contraband substance recovered and seized from the possession of the accused person which is admittedly small quantity, and further considering the period of detention, his further custodial detention seems to be unwarranted here in this case and accordingly, it is provided that on furnishing a bond of Rs.25,000/- with one surety of the like amount to the satisfaction of the learned Special Judge, NDPS Act, Guwahati, Kamrup (M), the accused be enlarged on bail.

JUDGE

Comparing Assistant