

GAHC010269652023



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

Case No. : Bail Appln./4378/2023

PAPORI DAS
W/O LATE PABITRA DAS
C/O NIPEN BHUYAN
R/O JORABARI
P.S. NARAYANPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MOTIUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.12.2023

Heard Mr. A.K. Talukdar, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Smti Papori Das, who has been detained behind the bars since 15.09.2023 (for last 96 days) in connection with NDPS Case No. 79/2023 pending before the Court of learned Special Judge (NDPS), Diphu, Karbi Anglong.

It is submitted by the learned counsel for the petitioner that an FIR was lodged by one, Dipak Lahon, S.I. of Police before the Officer-In-Charge of Khatkhathi Police Station. On receipt of the said FIR, Khatkhathi P.S Case No. 97/2023 was registered under Section 21(b)/29 of the NDPS Act against the present petitioner and another co-accused namely, Pritam Prakash Neog for possession of 47.96 gram of heroin.

Learned counsel for the petitioner has submitted that the petitioner is a woman and has been detained behind the bars for last 96 days. It is also submitted that the quantity of contraband seized in this case is less than commercial quantity. Hence, the embargo of Section 37 of the NDPS Act, 1985 is not applicable here in this case and continued detention of the petitioner is no longer required for the purpose of the trial as she is ready to face trial and she is a permanent resident of Lakhimpur town, village-Jorabari under Narayanpur P.S. in the Lakhimpur district.

It is also submitted that the husband of the present petitioner is suffering from cancer and is taking treatment of cancer in the Gauhati Medical College and Hospital and due to the long detention of the present petitioner, the treatment of the husband has been hampered.

On the other hand, learned Additional Public Prosecutor submits that there are sufficient incriminating materials against the present petitioner in this case and though the charge-sheet has been laid under Section 21(b)/29 of the NDPS Act, 1985 the charges are yet to be framed.

Learned Additional Public Prosecutor has opposed the grant of bail at this stage and has submitted that bail may perhaps be considered only after framing of the charges against the present petitioner.

I have considered the submissions made by learned counsel for both the sides and also perused the scanned copy of the case record of the NDPS Case No. 79/2023. In this case, the quantity of contraband seized is of intermediate quantity and the petitioner has been detained behind the bars for last 96 days. She is a woman and her husband is suffering from cancer. If she co-operates in the trial, her continued detention does not appear to be necessary.

Hence, the above named petitioner is hereby allowed to go on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the learned Special Judge, Karbi Anglong with the following conditions that:-

- (i) the petitioner shall regularly appear before the learned Trial Court as and when so required by the learned Trial Court and shall co-operate in the trial; and
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case so as to dissuade such person to disclose such facts before the Investigating Officer or before the Court;

With the above observations, this bail application is hereby disposed of.

JUDGE

Comparing Assistant