

GAHC010271172022



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

Case No. : Bail Appln./15/2023

ABU BAKKAR
S/O- LT. SHOFIQUR RAHMAN, VILL- JAKIALA, P.O. ERALIGOOL, P.S.
PATHARKANDI, DIST.- KARIMGANJ, ASSAM, PIN- 788723

VERSUS

THE NARCOTICS CONTROL BUREAU
(NCB) REP. BY THE STANDING COUNSEL OF NCB

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 21-02-2023

Heard Mr. J.M. Sulaiman, learned counsel for the petitioner as well as Ms. P. Das, learned counsel on behalf of Mr. S.C. Keyal, learned standing counsel for the NCB.

2. The petitioner who was arrested on 09.06.2019 and has spent about 3 years 8 months 12 days in custody is seeking regular bail in connection with

NCB crime no.07/2019, which is now tried as NDPS case no.99/2019 under section 22(c)/29 of the NDPS Act.

3. The learned counsel for the respondent has objected to the prayer for bail.

4. On perusal of the final complaint filed on 03.12.2019 as well as on perusal of the scanned copy of the records received from the trial Court, it appears that the petitioner was caught red-handed with conscious possession of methamphetamine tablets weighing about 395 grams. As per the FSL report, the seized drugs in the form of tablets was found to be methamphetamine. Accordingly, the drugs seized from the possession of the petitioner weighing 395 grams is of commercial quantity.

5. Therefore, in view of the decision of the Supreme Court of India in the case of *Satender Kumar Antil vs. Central Bureau Of Investigation, in Special Leave Petition (Crl.) No.5191 Of 2021*, the Court is of the considered opinion that as the petitioner and another co-accused were caught red-handed dealing in narcotic drugs and the petitioner was found to be in conscious possession of the rucksack bag containing narcotic tablets i.e. drugs. The Court is not in a position to record its satisfaction that the petitioner is not guilty of the offence or that if he is released on bail the petitioner will not indulge in similar offence which is a mandate of section 37 of the NDPS Act.

6. Accordingly the prayer for bail is refused at this stage.

7. At this stage the learned counsel for the petitioner has referred to the order dated 08.10.2020 passed by this Court in BA 1648/2020 wherein this Court had directed the learned trial Court to expedite the trial of the case.

8. In the said regard, the learned standing counsel for the respondent has submitted that there are five accused in the case and three of them are absconders. The case was finally split up against the petitioners and the trial has now commenced and three witnesses out of eleven are examined so far.

9. Be that as it may, this Court by order dated 08.10.2020 in BA 1648/2020 had already issued a direction to the learned trial Court to expedite the case and having noted that 3 ½ years have gone by, the Court is of the considered opinion that this is appropriate case to issue a direction to the learned trial Court i.e. the learned Special Judge (NDPS), Kamrup (Metro), Guwahati to take appropriate steps through the prosecuting agency for service of summons to the prosecution witnesses and the trial Court shall make an endeavor to conclude the examination of the remaining prosecution witnesses preferably within an outer period of 4(four) months from the date of certified copy of the order.

10. With the above observations, this bail application stands closed.

11. The Registry shall not issue copies (certified or uncertified) from the scanned copy of the LCR.

JUDGE

Comparing Assistant