

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. 5/2024

Eyachin Chowdhury on behalf of Nahima Akhtar -----Petitioner(s)

Versus

The State of Tripura -----Respondent(s)

For Petitioner(s)	:	Mr. S. Kar Bhowmik, Sr. Advocate Mr. E.L. Darlong, Advocate
For Respondent(s)	:	Mr. S. Ghosh, Addl. PP

HON'BLE MR. JUSTICE ARINDAM LODH
Order

20/02/2024

Heard Mr. S. Kar Bhowmik, learned senior counsel assisted by Mr. E.L. Darlong, learned counsel for the petitioner. Also heard Mr. S. Ghosh, learned Additional PP appearing for the respondent-State.

This is an application filed under Section 439 Cr.P.C. for releasing the accused, Nahima Akhtar on bail who has been in custody for 35 days in connection with Sonamura PS case No. 2024 SNM 003, dated 13.01.2024 registered under Sections 22(C)/29 of NDPS Act, 1985.

Mr. Kar Bhowmik, learned senior counsel has submitted that the accused woman who is the wife of the petitioner herein is innocent and there is no criminal antecedent against her that she was ever found in trading of contraband items. Mr. Kar Bhowmik, learned senior counsel has mainly emphasized that the woman-in-custody has a sucking baby who is aged about 20 months and the baby is also accompanying her mother in the custody. Mr. Kar Bhowmik, learned senior counsel has further submitted that the accused-woman has another daughter who is pursuing her studies in Upper KG and attains the age of 6 years and her annual examination will commence from 29.02.2024. Mr. Kar Bhowmik, has tried to persuade this court by placing reliance upon an order dated **01.03.2023** passed by the Hon'ble Supreme Court in *Sahimina Biswas vs. The State of West Bengal*, in a *Petition for Special Leave to Appeal (Crl.) No. 12168/2022* to justify

that it is a fit case for granting bail to the accused-woman. Mr. Kar Bhowmik, learned senior counsel has finally prayed for granting at least an interim protection to the accused-woman due to the examination of her elder daughter.

On the other hand, Mr. S. Ghosh, learned Additional PP has strongly opposed the bail application and the submission advanced by learned senior counsel for the petitioner. Mr. Ghosh, learned Additional PP has submitted that 1000 nos. of Yaba tablets were recovered from the possession of the accused-woman. Furthermore, one plastic packet of Bangladeshi currency worth 1,80,200 taka was also found from the possession of the accused-woman. Learned Additional PP has submitted that if under this circumstance the accused is released on bail a wrong message will go to the society and to the persons involved in such trading. Further, learned Additional PP has submitted that if the accused is released on bail she may flee away to Bangladesh.

I have considered the submissions of learned counsel appearing for the parties.

At the outset, I have gone through the order dated 01.03.2023 passed by the Hon'ble Supreme Court in ***Sahimina Biswas (supra)***. There is fundamental difference between the facts of the case of ***Sahimina Biswas(supra)*** and the facts of the instant case, where the Hon'ble Supreme Court has granted bail to the accused. In the case of ***Sahimina Biswas (supra)*** the Hon'ble Supreme Court had observed that “*prohibited substance was recovered from the possession of the husband; and the petitioner-wife was travelling with him.*” In the circumstances, the Hon'ble Supreme Court held that since there was no previous history that Sahimina Biswas was involved in similar kind of offence, the Hon'ble Supreme Court had considered bail in favour of the accused-woman. In the instant case, 1000

nos. of Yaba tablets alongwith 1,80,000/- Bangladeshi taka were recovered from the possession of the accused herself.

In view of this, I am not inclined to release the accused-woman, namely, Nahima Akhtar on bail. Accordingly, the instant bail application stands dismissed.

JUDGE

SAIKAT KAR Digitally signed by SAIKAT KAR
Date: 2024.02.20 16:08:57
+05'30'