



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

Case No. : BA/19/2024

Koj Taping
Son of Late Koj Kojee, resident of Dutta Village, PO and PS Ziro, Lower Subansiri
District, Arunachal Pradesh

VERSUS

The State of AP
represented by the PP

Advocate for the Petitioner : Tapi Omo

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 29-02-2024

Heard Mr. T. Omo, the learned counsel for the applicant and Mr. G. Tado, the learned Additional Public Prosecutor for the State respondent.

2. The present application under Section 439 of the Code of Criminal Procedure, 1973, has been so instituted by the applicant, praying for enlarging on bail the accused, namely, *Shri Koj Kojin@Koji*, in connection with Ziro P.S. Case No.01/2020, under Section 27(a) corresponding to NDPS Case (Z) No.11/2021, pending before the

Court of the learned Special Judge (NDPS, Act) Lower Subansiri/Kurung Kumey/Kamle/Kra-Daadi Districts.

3. The accused, *Shri Koj Kojng@Koji* was placed under arrest on 11.01.2020, in connection with Ziro P.S. Case No.01/2020. The Police on completion of the investigation submitted its Charge-sheet being Charge-sheet No.21/2020, dated 07.07.2020, against the accused and one another. In the Charge-sheet, while the co-accused, Shri Nani Tara was Charge-sheeted under Section 22(c)/27(a) of the NDPS Act, 1985, the present accused was so Charge-sheeted under Section 27(a) of the NDPS Act, 1985. Thereafter, the Trial Court framed the charge against the present accused under Section 27(a) of the NDPS Act on 17.11.2022. The matter is now presently pending trial before the said Court of the Special Judge (NDPS), District & Sessions Court, Ziro, Lower Subansiri District (A.P).

4. On perusal of the materials brought on record, more particularly, the Charge-sheet as submitted in the matter on 07.07.2020, it is seen that the present accused was charged only under Section 27(a) of the NDPS Act, 1985. Section 27(a) of the said Act of the 1985 being relevant to issues arising in the present proceedings is extracted, hereinbelow:

"[27. Punishment for consumption of any narcotic drug or psychotropic substance. - Whoever, consumes any narcotic drug or psychotropic substance shall be punishable,

(a) where the narcotic drug or psychotropic substance consumed is cocaine, morphine, diacetylmorphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette, with rigorous

imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and

.....”

For the offence under Section 27(a), the maximum penalty prescribed is rigorous imprisonment for a term which may extend to 1(one) year or with fine which may extend to 20,000/- or with both.

5. In the present case, it is seen that the accused is behind the bars since 11.01.2020 and he has by now completed more than the maximum punishment that he may be sentenced to, on conclusion of trial in the pending Sessions case.

6. The accused as projected in the petition is a government employee under the Directorate of Fire & Emergency Services, Arunachal Pradesh and it has also been contended that the accused was an addict but after his incarceration for such long period of time, he has now completely become non-dependent on the substance and he is ready to re-start his life anew. It is to be also noted that the other accused in the present case, Shri Nani Tara, who was also placed under arrest on 11.01.2020, was released on bail on 13.02.2020.

7. In view of the above, this Court is of the considered opinion that the applicant in this case is also entitled to be extended with the privilege of bail and accordingly, the accused, namely, Shri Koj Kojing@Koji is hereby, directed to be released on bail in connection with Ziro P.S. Case No.01/2020, under Section 27(a) corresponding to NDPS Case (Z) No.11/2021, pending before the Court of the learned Special Judge (NDPS, Act) Lower Subansiri/Kurung Kumey/Kamle/Kra-Daadi Districts, on furnishing a bail bond of Rs. 10,000/- with one surety of like amount to the satisfaction of the learned Special Judge (NDPS), District & Sessions Court, Ziro, Lower Subansiri District

(A.P), if not required in connection with any other case, subject of course, to the following condition:

“ that the accused shall appear before the Court of the learned Special Judge (NDPS), District & Sessions Court, Ziro, Lower Subansiri District (A.P) on each and every day of the trial”

8. The bail application accordingly stands disposed of.

JUDGE

Comparing Assistant