

GAHC040003662024



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

Case No. : BA/32/2024

Moin Uddin
S/o late Hifzur Rahman, resident of Village Kanakpur, PO Kaistagram, PS
Nilambazar, Karimgangj Dsitrict, Assam 788722

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Tania Kipa

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 24-04-2024

Heard T. Kipa, the learned counsel for the petitioner. Also
heard Ms L. Hage, the learned Additional Public Prosecutor for the
State of Arunachal Pradesh.

2. This is an application under Section 439 of the Cr.P.C, 1973 seeking bail to the accused/petitioner, namely, Shri Jabir Hussain who was arrested on 31.03.2023, in connection with NDPS Case No. 32/2023 and Chimpu P. S. Case No. 15/2023, registered under Sections 21(b)/27 A/29 of the NDPS Act.

3. The case of the prosecution in brief is that on 30.03.2023, an FIR was lodged alleging *inter alia* that on 28.03.2023, the police team arrested one Amir Ali and recovered contraband articles from his possession. During the interrogation of the said accused, it was revealed that he is a drug peddler and had procured drugs which were seized from him, from the petitioner, who is based at Dimapur, Nagaland.

4. Accordingly, a trap was set up and the petitioner was called at Chimpu through arrested accused Amir Ali and when the petitioner arrived at Chimpu on a scooty as per the plan, along with one lady accused, namely, Reena Biswas, the Naharlagun police team apprehended the said two persons and upon searched being made contraband articles were found in the boot of the scooty, which were seized thereafter. Accordingly, a case has been registered.

4. Mr. T. Kipa, the learned counsel for the petitioner submits that the petitioner has been languishing in the jail for the last 388 days

and charge-sheet has been filed on 07.08.2023, after about 208 days. He further submits that trial is pending and that the petitioner is totally innocent and has been wrongly implicated for the offence alleged. He further submits that scooter belongs to one Reena Biswas, who is the main accused in the case and the petitioner has nothing to do with the contraband article seized.

5. Ms. L. Hage, the learned Additional Public Prosecutor, on other hand, strongly opposes the prayer for bail. She submits on basis of the materials available in the scanned copy of the LCR that the case is now fixed for framing of charge and there are sufficient materials available on record implicating the accused for the offence alleged. She further submits that a case is *prima facie* made out against the accused for the offence alleged and the accused being habitual offender is likely to commit such offence if released on bail.

6. I have heard the submissions made at the bar and perused the materials available on records.

7. It appears that during the investigation, the petitioner has given his statement under Section 161 Cr.P.C. wherein the petitioner has clearly confessed committing the offence alleged. It further appears from the aforesaid statement of the petitioner that the petitioner is regularly involved in selling narcotic substances by

procuring it from Dimapur and there is clear admission that the petitioner along with the co-accused, Reena Biswas procured the seized contraband articles and delivered the same to the co-accused Amir Ali for supply in Assam as well as in Arunachal Pradesh. It further appears that the said contraband article was also seized from their possession.

8. In view of the aforesaid materials which are reasonable for believing that the petitioner is guilty of the offence alleged, this Court is not inclined to grant bail to the petitioner at this stage. Accordingly, the bail application stands rejected.

Disposed of.

JUDGE

Comparing Assistant