

GAHC040006342024



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

Case No. : BA/53/2024

Tayop Pakba
Son of Shri Gering Pakba, permanently and presently residing at Kime Pakka Tagin colony, near King Cup School, Itanagar, PO and PS Itanagar, Papumpare District, Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Talin Dukam Rigia

Advocate for the Respondent : P P of AP

Linked Case : IA(Crl)/55/2024

Tayop Pakba
Age: 50
Occupation :
Address: Son of Late Gering Pakba
permanent resident of Pakba Village
PO and PS Taliha
Upper Subansiri District
Arunachal Pradesh and presently residing at Kime Pakka Tagin Colony
near King Cup School

Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

VERSUS

The State of Arunachal Pradesh
Age: 0
Occupation :
Address:represented by the PP of AP

Advocate for : Tsering Lhamu
Advocate for : P P of AP appearing for The State of Arunachal Pradesh: Advocate
appearing for respectively.

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 17-06-2024

Heard Mr. T. Dukam, learned counsel for the petitioner. Also heard Ms T. Jini, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the alleged accused Shri Takar Pakba, in connection with Naharlagun P.S. Case No.34/2024, under Section 21(b)/27/29 of Narcotic Drugs and Psychotropic Substances, 1985.

3. Vide an order dated 17.05.2024, the scanned copy of the case

diary was called for in BA 53 (AP)/2024. However, during the pendency of the BA 53 (AP)/2024, the accused has already completed the statutory period of 60 days. Hence, the petitioner has filed interlocutory application under Section 167 (2)(a)(ii) R/w Section 439 of the Cr.P.C for grant of default bail to the accused as the I.O. of the case has failed to file charge-sheet within the statutory period of 60 days.

4. Learned Additional Public Prosecutor, Ms T. Jini has produced the scanned copy of the case diary. However, she fairly submits that the case is still under investigation and the I.O. of the case could not submit charge-sheet into the case within the statutory period.

5. The learned counsel for the petitioner submits that since the I.O. of the case has failed to submit the charge-sheet into the case within the statutory period of 60 days, the accused is entitled to be considered for released on default bail.

6. The record reveals that the accused was arrested on 28.03.2024, in connection with the above Naharlagun P.S. Case No. 34/2024, under Section 21(b)/27/29 of NDPS Act, and since then, he has spent about 85 days inside the police/judicial custody and the police has failed to file charge-sheet in the case till date. Under the circumstances, the accused is entitled to be released on default bail under Section 439 Cr.P.C read with Section 167 (2)(a)(ii) and the

court has no discretion in this regard.

7. In view of the above, this bail application is allowed. The accused is directed to be released on bail on execution of a bail bond of Rs.20,000/- with 2(two) sureties of like amounts to the satisfaction of the learned Special Judge, NDPS, Yupia subject to the following conditions;

1. The accused shall cooperate and appear before the I.O of the case, as and when, called for;
2. The accused applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
3. The accused shall not commit an offence similar to the offence of which he is accused, or suspected of commission.

8. With the above directions, bail application as well interlocutory application stands disposed of.

JUDGE