



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

Case No. : AB/115/2024

Bapukan Das
Son of Haridhar Das, Resident of Village and PO Japia, PS Hajo, Kamrup District,
Assam 781382

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Binod Das, S. Barman

Advocate for the Respondent : Ms. L. Hage, Addl. P P of AP

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 30-08-2024

Heard Mr. S. Barman, learned counsel for the applicant. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State.

2. This application under Section 482 of *the Bharatiya Nagarik Suraksha*

Sanhita (BNSS), 2023, has been filed by the applicant, *Shri Bapukan Das*, who is apprehending his arrest in connection with NDPS Case No. 02/2024, pending before the learned Special Judge, NDPS, Bomdila, corresponding to Balem P.S Case No. 12/2021.

3. The learned counsel for the applicant has submitted that, on the basis of the F.I.R., which was lodged on 18.11.2021, by one *Shri Ravi Singh*, wherein, allegation was made regarding recovery of 100 Kgs of *Ganja* from the vehicle bearing registration No. AS-25EC/7624, Balem P.S. Case No.12/2021 was registered and investigation was initiated. Ultimately, on completion of investigation, Charge-sheet was laid against two accused persons and the present applicant was shown as an absconder, therein.

4. The learned counsel for the applicant has submitted that the applicant had cooperated in the investigation and he is no way involved in the offence alleged in the Charge-sheet. He submits that the vehicle from which the contraband was recovered, belongs to the applicant, however, it was stolen before the alleged incident. He also submits that with regard to theft of his vehicle, the applicant had also lodged an F.I.R. before the Hajo Police Station on 18.11.2021. He submits that as the applicant has been shown as an absconder in the Charge-sheet, the applicant apprehends that he may be arrested any time.

5. On the other hand, the learned Additional Public Prosecutor has submitted that on perusal of the Charge-sheet, it appears that the plea of theft of vehicle taken by the applicant has been only a ploy to save himself from getting

incriminated in the case. She submits that the Investigating Officer had visited the Hajo Police Station also during the course of the investigation and has found that the Hajo Police Station Case No.1962/2021 was registered on the basis of the F.I.R. filed by the present applicant, only on 21.11.2021, i.e. after 3(three) days of the alleged incident in the instant case. It is also submitted by the learned Additional Public Prosecutor that as the contraband seized in this case is of commercial quantity, the embargo of Section 37 of the NDPS Act comes into play and therefore, she opposes the grant of bail to the present applicant.

6. I have considered the submissions made by the learned counsels for the contesting parties and perused the materials available on record.

7. In this case, it appears that the Charge-sheet has been laid, showing the present applicant as an absconder and the next date of the case is fixed on 26.09.2024 for appearance and as submitted by the learned counsel for the applicant, only summons have been issued to the present applicant. Hence, this Court is of the considered opinion that as there is no pending warrant against the present applicant, there is presently no apprehension of getting arrested in connection with the NDPS Case No. 02/2024.

8. This Anticipatory Bail Application is accordingly, disposed of, with a direction to the applicant to appear before the Trial Court on the next date fixed, i.e. on 26.09.2024. The applicant may file a Bail Application before the said Court, on such appearance, if so advised. If he files any Bail Application, the Trial Court shall consider it, in accordance with law.

9. This Anticipator Bail Application, accordingly, stands disposed of.

JUDGE

Comparing Assistant