

GAHC040012912024



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

Case No. : BA/96/2024

Nayandeep Deka Baruah @ Nayandeep Sonowal
Son of Late Budheswar Sonowal, resident of Nemukur Gaon, PO Bamrajabari, Nitai
Pukhuri Gaon, Sibsagar, Assam 785671

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : 1 B Deori, N Barman, A Timung

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 06-11-2024

Heard Mr. N. Barman, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State.

2. This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of bail to the accused petitioner, namely, Shri Nayandeep Deka Baruah @ Nayandeep

Sonowal, who has been arrested in connection with BSA P.S. Case No. 14/2024 under Section 21(b) of NDPS Act, 1985.

3. The case of the petitioner is that on the basis of the FIR lodged by one ASI Minjom Yomcha on 31.08.2024, the above P.S Case was registered and the accused was arrested on the same day on 31.08.2024 and since then, the accused petitioner has been languishing inside the custody for about 67 days.

4. The learned counsel for the petitioner submits that even after expiry of 67 days from the date of his arrest, the I.O. of the case has failed to file the case into charge sheet, under the circumstance, the petitioner is entitle to be considered for his release on default bail. However, as per the Section 187 3(i) of the BNSS, it is provided that, 90 days where the investigation relates to offence for punishment of imprisonment for life and imprisonment for a term 10 years or more. In the instant case, the offence registered against the accused is under Section 21(b), whose punishment is with rigorous imprisonment for a term which may extend to ten years and with fines which may extend to one lakh rupees. In view of the above provision of 187 3(i), the statutory period for completion of investigation entitling the petitioner for default bail is 90 days and not 60 days. Accordingly, the prayer for default bail is hereby rejected.

5. Now coming to the merit of the case, it appears that in the FIR dated 31.08.2024 itself, the informant has stated that he has recovered a suspected heroin weighing 177.0 grams from the Thar

vehicle driven by the accused Nayandeep Deka Baruah at Sunday market area, Bordumsa.

6. I have also perused the case diary produced before this Court. As per the record, the recovery made from the accused and substance seized by the I.O. of the case has been corroborated by the witnesses including the accused himself. Record further reveals that on 31.08.2024 while on the way to Bordumsa town area, to sell drug, narcotics substances to the drug consumer within the area, the accused was intercepted by the police team conducting Naka checking on National Highway near Sunday market, Bordumsa and recovered 14 soap cases containing drug from his possession.

7. Learned Additional Public Prosecutor submits that the case is still under active investigation and if at this stage, the accused is released on bail, it will surely hamper the further investigation of the case and there is also likelihood that the accused might jump bail.

8. Heard both the learned counsel for the parties and considered.

9. Upon hearing the learned counsel for the parties and on perusal of the record, I find that there is sufficient incriminating material found against the accused for commission of the alleged offence. Accordingly, considering the seriousness of the allegation made against the accused and materials found against him on record so far collected by I.O of the case, and also considering that the matter is still under the initial stage of investigation, I am not inclined to grant

bail to the accused at this stage. Accordingly, this bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant