

GAHC010000192024



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

Case No. : Bail Appln./72/2024

INTAJ ALI @ IMTIAZ ALI AND ANR
S/O- PAINUR ALI, VILL.- LARMABATAKUCHI, P.S. GHOGRAPUR, DIST.
NALBARI, ASSAM

2: PRADIP PAUL
S/O- LATE HARIPAD PAUL
VILL.- SIMALUGURI
PS. SIMALUGURI
DIST. SIVASAGAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. A. MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 02-02-2024

Heard Ms. A. Medhi, learned counsel for the accused. Also heard Mr. R. J. Baruah, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr.P.C. is preferred by two accused, namely, 1. Intaj Ali @ Imtiaz Ali and 2. Pradip Paul, who have been languishing in jail hajot since 26.12.2023, in connection with Garchuk P.S. Case No. 368/2023, under Section 21(b)/29, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one Jitendra Sinha, I.C of ISBT Out-post, Garchuk on 26.12.2023.

The essence of allegation, made in the FIR, dated 26.12.2023, is that acting on a tip off on 25.12.2023, at about 7-50 PM he alongwith staff apprehended four persons namely, Intaj Ali, Pradip Paul, Prakash Kumar Singh and Moidul Islam in the ISBT Campus and recovered 12 grams of suspected Heroin from the possession of Prakash Kumar Singh and seized the same in presence of witnesses.

Ms. Medhi, learned counsel for the accused submits that the accused were arrested on 25.12.2023 and since then they are languishing in jail hajot for last 39 days and that nothing has been recovered from the present accused namely, Intaj Ali and Pradip Paul and the accused are local persons and they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. Barua, learned Addl. P.P. has produced the case diary before this Court and submits that material part of the investigation is almost complete and the case is pending for collection of FSL report. Mr. Barua, further submits that though nothing has been recovered from the possession of the present two accused, yet, at the relevant point of time all the accused were together at ISBT Campus, Guwahati and therefore, Mr. Barua has opposed the petition.

Having heard the submission of learned Advocates of both sides, I have gone

through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

The case diary indicates that the I.O. has achieved substantial progress in the investigation of this case and the case is pending for collection of FSL report only. Further, it appears that nothing has been recovered from the possession of the present two accused but, they were together with the co-accused Prakash Singh, Moidul Islam and the contraband substances were recovered from the accused, Prakash Kumar Singh and indisputably, the quantity of contraband substances is of intermediate quantity and as such the embargo u/s 37 of the NDPS Act will not come into play, in this case.

Having considered above, specially, the stage of investigation and also the period of detention and balancing the same with the nature and gravity of the offence, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs.50,000/- with one surety of like amount to the satisfaction of the learned Special Judge, NDPS, Kamrup(M), Guwahati, the accused be enlarged on bail.

Case diary be returned.

JUDGE

Comparing Assistant