

GAHC010000292024



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

Case No. : Bail Appln./51/2024

SHARIFUL ISLAM @ RABBUL
S/O- LT. AMIR HUSSAIN, VILL- HAJIPARA, P.O. JASHIHATIPARA, P.S.
HOWLY, DIST.- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

08.01.2024

Heard Mr. R. Ali, learned counsel for the accused and Mr. B. Sharma, learned Additional Public Prsecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Shariful Islam @ Rabbul**, who has been languishing in jail hazot in connection with the **Howly P.S. Case No. 187/2023**, under Section 21[b] of the NDPS Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by

one Mintu Kalita, on 05.11.2023. The essence of allegations made in the FIR is that acting on a tip off the informant had intercepted one vehicle, bearing registration No. AS-01-QC-9986, and apprehended two persons namely, Md. Rafikul Islam and Hanif Ali, and recovered one black plastic polythene containing 4 nos. of soap cases, loaded with suspected heroin.

4. Mr. Ali, learned counsel for the accused submits that the accused was arrested on 08.11.2023, and since then he has been languishing in jail hazot for more than 60 days and till date no charge sheet has been submitted by the IO and as such, he is entitled to default bail.

5. On the other hand Mr. Sharma, learned Additional Public Prosecutor while not disputing the submission of Mr. Ali, learned counsel for the accused, submits that he may be allowed some time to obtain instruction from the IO concerned, as to whether charge sheet has been submitted against the accused or not.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the records and the documents placed on record.

7. It appears that the accused was arrested on 08.11.2023, and since then he has been languishing in jail hazot for more than 60 days and till date no charge sheet has been submitted by the IO as submitted by learned counsel for the accused. As the case has been registered under Section 21[b] of the NDPS Act, the mandatory period of detention is 60 days. As such, the accused is entitled to default bail under Section 167[2] Cr.P.C.

8. Accordingly it is provided that on furnishing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the learned **Special**

Judge, NDPS Act, Barpeta the accused be enlarge on bail.

9. In terms of above this BA stands disposed of.

Comparing Assistant

JUDGE