

GAHC010000972024



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

Case No. : Bail Appln./54/2024

NAZRUL ISLAM
S/O- AMZAD ALI, R/O- KHARUPETIA, WARD NO-3, P.S. KHARUPETIA,
DIST.- DARRANG (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-01-2024

Heard Mr. M. Ahmed, 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 accused, Nazrul Islam, who has been languishing in jail since 05.12.2023, in connection with Dhula P.S. Case No. 256/2023, under Sections 21(b)/29 of NDPS Act, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by Madan Newar of Dhula P.S on 4.12.2023.

The essence of allegation, made in the FIR, dated 4.12.2023, is that acting on a tip off, he alongwith police staff apprehended Sukur Ali and Nazrul Islam and recovered 5.48 gram of suspected brown sugar from their possession and seized the same preparing seizure list. The learned counsel for the accused submits that the accused is behind the bar for last 45 days and the quantity of contraband substance allegedly recovered from the possession of the accused is of 5.48 grams which is of intermediate quantity and that the accused is 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. submits that he has received the case diary and the same indicates that material part of the investigation is over and the case is pending for collection of FSL report only.

Having heard the submission of learned Advocates of both the parties and I have carefully 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 for the State respondent.

Indisputably, the accused was arrested on 05.12.2023, and since then he has been languishing in jail hazot for last 45 days. Indisputably, also the quantity of contraband substance allegedly recovered from the possession of the accused is 5.48 grams, which is of intermediate quantity and as such, the embargo u/s 37 of the NDPS Act will not come into play, in this case. Further, the case diary indicates that the material part of the investigation is almost over and the case is pending for collection of FSL report only.

Having regards to the nature and gravity of the offence and the punishment for the same and also balancing the same with the period of detention, this Court is of the view that further custodial detention of the accused seems to be not warranted in the interest of investigation and accordingly, this Court is inclined to allow this petition. 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 Act, Darrang, Mangaldoi, the accused be enlarged on bail.

Case diary be returned.

JUDGE

Comparing Assistant