

GAHC010003242024



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

Case No. : Bail Appln./80/2024

IFTIKAR HUSSAIN
S/O LATE IMRAN HUSSAIN
R/O FAUZDARIPATTY
P.S.NAGAON SADAR
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 10-01-2024

- 1.** Heard Mr. P.K. Roychoudhury, learned counsel for the petitioner.
- 2.** The petitioner, namely, Iftikar Hussain has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 19.02.2023 in connection with

Special NDPS Case No. 139/2023 arising out of Nagaon P.S. Case No. 151/2023 under Sections 22(C)/29 of NDPS Act.

3. The allegation is that on a tip off, a search operation was conducted by the investigating team on 09.02.2023. At about 4:30 PM, one white coloured Tata Zest vehicle bearing Registration No. AS-25-DC-2358 was seen approaching from the Nagaon side. While the driver of the vehicle tried to escape with the vehicle the police team chased them and finally even after sustaining injuries the police team managed to apprehend the petitioner along with Mun Mun Hoque. 170 cough syrup bottles and 5530 Sampex capsules were recovered from the vehicle which was seized and the petitioner was arrested and forwarded to custody.

4. The petitioner's daughter who is at present 6 years old is suffering from 90% locomotive disability. The petitioner vide order dated 19.06.2023 was granted interim bail to be able to provide proper medical treatment to his seriously ailing daughter. The bail was granted by learned Court of Additional Sessions Judge No. 2, Nagaon and was again extended vide orders dated 31.07.2023, 03.08.2023 and 30.08.2023. The Additional Sessions Judge No. 2, Nagaon vide order dated 07.09.2023 rejected the prayer for extension of interim bail and issued NBWA against the petitioner. This order was challenged before this Court and Criminal Petition No. 1054/2023 was registered and vide order dated 28.09.2023, the petitioner was directed to appear before the learned trial Court and the execution of non-bailable warrant was kept in abeyance for 20 days. In the interlocutory application No. 1155/2023 this Court again passed an order on 21.12.2023 allowing time to the petitioner to appear before the learned trial Court on or before 15.01.2024 as the petitioner's daughter is suffering from 90% disablement.

4. Heard Mr. D.P. Goswami, learned Addl. PP, Assam.

5. I have considered the submissions at the Bar. The Annexure-XIV of the petition clearly reveals that the petitioner's daughter is at present ailing seriously. The OPD

MRD dated 02.01.2024 reveals that the victim's face, legs and hands are swollen and she is also suffering from loss of appetite. The petitioner's daughter is 6 years old as revealed by Annexure-4 of the petition. The Annexure-2 is a disability certificate issued by the medical board which reveals that the petitioner's daughter is suffering from blindness of both eyes and 90% locomotor disability. I have considered the submission that the petitioner's wife will be unable to go for specialised treatment of his seriously ailing daughter alone. The petitioner's attendance is required to provide proper treatment to his daughter. The petitioner has also submitted that he is willing to co-operate with the investigation.

6. Considering the peculiar facts and circumstances of this case, the petitioner is directed to appear before the learned trial Court on or before 15.01.2024 and apply for bail, which may be considered by the learned trial Court as per merits of this case.

In terms of the above observation, petition is disposed of.

JUDGE

Comparing Assistant