

GAHC010004202024



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

Case No. : Bail Appln./98/2024

MD. KAMAL HASSAN AND 2 ORS
S/O- MD. KAMARUL HOQUE, R/O- VILLAGE- THOUBAL MOIJING MAYUI
LEKAI MOIJING, P.S. AND DIST.- THOUBAL, STATE- MANIPUR

2: MD. SAGIR AHMED
S/O- SAMI
R/O- VILLAGE- THOUBAL MOIJING MAYUI LEKAI MOIJING
P.S. AND DIST.- THOUBAL
STATE- MANIPUR

3: MD. RAQUBUL HASSAN
S/O- MD. RAHAMAD
R/O- VILLAGE- THOUBAL MOIJING MAYUI LEKAI MOIJING
P.S. AND DIST.- THOUBAL
STATE- MANIPU

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. I CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 09-02-2024

Heard Mr. I. Choudhury, learned counsel for the petitioners *Md. Kamal Hassan, Md. Sagir Ahmed and Md. Raqubul Hassan*.

2. The petitioners have filed this application under Section 439 of the Code of Criminal Procedure, 1973 as they are behind bars since 18.10.2022 in connection with NDPS Case No. 06/2023 arising out of Dillai Police Station Case No. 35/2022 under Sections 22(c)/29 of the NDPS Act.

3. Heard Ms. N. Das, learned Additional Public Prosecutor for the respondent State.

4. It is submitted on behalf of the petitioners that they have been languishing in jail for 1 (One) year 8 (Eight) months and only 4 (Four) witnesses out of 12 (Twelve) witnesses have been examined. The petitioners' right to liberty has been curtailed.

5. The FIR unfolds that on a tip off, a joint naka checking was set up at Dillai Tiniali by the investigating team on 18.10.2022 and at about 4:00 PM one I20 Car bearing registration No. AS 01 AR 2221 was intercepted and checked as per proper procedure. 50 (Fifty) packets each containing 200 (Two Hundred) yaba tablets were recovered from the dickey of the car and the driver along with two other occupants were arrested in connection with this case and the yaba tablets numbering 10,000 were seized in connection with this case.

6. I have considered the submissions at the bar with circumspection. At this juncture, it cannot be said that trial has been procrastinated to an extent and that the personal liberty of the petitioners has been curtailed. The rigour of

Section 37 of the NDPS Act acts as an embargo. Thus the petition with prayer for bail is rejected at this stage. However, the trial Court is directed to expedite the trial for speedy disposal of the case.

7. On further procrastination of the trial, the petitioner is at liberty to file a fresh bail petition, which may be considered as per merits of the case.

In the above terms this Bail Application stands disposed of.

JUDGE

Comparing Assistant