

GAHC010007432024



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

Case No. : Bail Appln./180/2024

SUMAN DAS ADHIKARI
S/O GOPAL DAS ADHIKARI
R/O HARIDRADANGA GAREDHAR UTTAR
P.S. CHANDANNAGAR
DIST. HOOGLY, WEST BENGAL.

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.04.2024

1) Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. M. K. Goswami, learned Additional Public Prosecutor for the State of Assam.

2) This application under section 439 of the Code of Criminal

Procedure, 1973 has been filed by the petitioner Suman Das Adhikari, who has been detained behind the bars since 01.11.2022(for 1year 5 months days) in connection with NDPS Case No. 39/2023corresponding to G.R.P.S Case No.147/2022 under Section 20(b)(ii)(C)/29 of the NDPS Act, 1985.

3) Learned counsel for the petitioner has submitted that on the basis of the FIR lodged by one Madan Ch. Kalitaon 31.10.2022, before the Officer-in-charge of GRPS Guwahati that on search of Rajdhani Express(12423)DN on 31.10.2022, while it was standing at Platform No.1, the informant recovered total 104.26 kg of Ganja from the possession of 4(four) numbers of accused.

4) Learned counsel for the petitioner has submitted that though total 104.260 kg of Ganja was seized on that day, however, from the possession of the present petitioner only 13.490 kg of Ganja was seized and, therefore, the seizure from the present petitioner is of intermediate quantity and therefore he is entitled to get the bail in this case.

5) On the other hand, learned Additional Public Prosecutor has pointed towards the seizure list dated 31.10.2022(MR No. 115/2022) and referring to point Nos. 7, 8, 9, 10 and 11 of the seizure list, he has submitted that a mere perusal of the seizure list would show that the total quantity of Ganja seized from the present petitioner is around 50 kg and, therefore, it falls within the category of commercial quantity.

6) I have considered the submissions made by learned counsel for both the sides and perused the materials on record, on perusal of the seizure list dated 31.10.2022, it appears that in Column No.7 of the seizure list total 13.490 kg of Ganja was shown to be seized from the present petitioner, whereas, in Column No.8 of the seizure list 13.490 kg of Ganja was shown to be seized from the present petitioner, whereas, in Column No.9 of the seizure list

total 21.240 kg of Ganja was shown to be seized from the present petitioner.

7) Mere perusal of the said entries would show that the quantity of Ganja seized from the custody of possession of the present petitioner is of commercial quantity and, therefore, embargo to Section 37 comes into play. The petitioner has not been able to overcome the said embargo and hence, the prayer for bail is rejected at this stage.

JUDGE

Comparing Assistant