

GAHC010007452024



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

Case No. : Bail Appln./166/2024

SHAHIDA KHATUN
W/O MUNIR HUSSAIN
R/O VILL- SOBHAPUR
P.S. SONAMURA
DIST. SIPAHIJALA, TRIPURA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T THAKURIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 22-03-2024

Heard Mr. T. Thakuria, learned counsel for the accused/petitioner and M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This is an application made under **Section 439 Cr.P.C.**, seeking bail by

the accused/petitioner, namely, Smt Shahida Khatun, in connection with NDPS Case no. 305/2022, arising out of Paltanbazar Police Station Case no. 375/2022, registered under **Sections 20(b)(ii)(C)/29 of NDPS Act, 1985.**

3. Learned counsel for the petitioner submits that the petitioner was apprehended along with her husband from a hotel Sumiya, Paltanbazar, Guwahati on 01.08.2022. Since then she has been detained in custody. Though charge has been framed, out of six witnesses, only one witness has been examined. Though the petitioner along with her husband came to Guwahati from Tripura for treatment of her child but she had no knowledge regarding the contraband items in the hotel room and considering the period of detention, the accused/petitioner may be enlarged on bail.

4. Learned counsel for the accused/petitioner, in support of his submission has placed reliance on the following case laws :-

(i) Shariful Islam @ Sarif vs. the State of West Bengal, [CRM (NDPS) no. 299/2022] and

(ii) Rabi Prakash vs. The State of Odisha, reported in 2023 (2) MWN (CR.) 399.

5. On the other hand, learned Additional Public Prosecutor has submitted that as commercial quantity of ganja was recovered from the hotel room wherein the petitioner was also residing along with her husband, Section 37 of the NDPS Act would come into play in considering the bail prayer for the petitioner.

6. I have considered the submissions of the learned counsel for the parties. The admitted fact is that the accused/petitioner was arrested along with her husband who is still in jail hajot. She has a minor son who stays in jail along

with her for more than one year. As per C/S only six witnesses have been cited to be examined in the case. Only one seizure witness was examined who in fact did not say anything about seizing of contraband from the present petitioner. In view of the above and considering the period of detention of the accused/petitioner, this Court is inclined to grant bail to the accused/petitioner.

7. Accordingly, the accused/petitioner, Smt Shahida Khatun, shall be released on bail in connection with NDPS Case no. 305/2022, arising out of Paltanbazar Police Station Case no. 375/2022, registered under **Sections 20(b)(ii)(C)/29 of NDPS Act, 1985**, on furnishing bail bond of **Rs.1,00,000/-** with **two suitable sureties** of the like amount, to the satisfaction of learned Special Judge, Kamrup (M).

8. The direction for bail is further subject to the conditions that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Kamrup (M), without prior written permission from him/her;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

9. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant