

GAHC010009262024



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

Case No. : Bail Appln./179/2024

RATUL ALI
S/O ELIAS ALI
VILL- UKHURA
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS G DEKA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 09.04.2024

- 1)** Heard Ms. G. Deka, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.
- 2)** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Ratul Ali, who has been detained behind the bars since 23.10.2023, in connection with Rangia P. S. Case No. 570/2023 under Sections 20(b)(ii)(C)/29 of the NDPS Act, 1985.
- 3)** The gist of the accusation in this case is that on 21.10.2023 one Samarjyoti Deka, had lodged an FIR before the Officer-In-Charge of Rangia Police Station, *inter-alia*, alleging that on receiving an information through reliable sources that some narcotics drugs, including ganja, is being smuggled in a vehicle from Udalguri side towards Hajo site, a naka checking was conducted at Maranjana at National Highway No.27 on 21.10.2023 and at about 10:20 p.m. a vehicle bearing registration no. AS 01 DR 9744 was found moving towards Rangia side. The same was signaled to be stopped. However, the driver did not stop the vehicle and moved towards Rangia side.
- 4)** The police chased the said vehicle. However, after a distance near Chepti Railway Gate in front of Premoda Sivanath Vidyapeeth School, the said vehicle was found in an abandoned conditions without key.
- 5)** On search of the said vehicle 18 numbers of packets of ganja were found from the dickey of the said vehicle and on weighing the ganja, the weight of the ganja was found to be 92.745 kilograms along with the plastic packets.
- 6)** The present petitioner was arrested thereafter on 23.10.2023 and since

then he has been detained behind the bars.

7) It is submitted by learned counsel for the petitioner that the vehicle seized in this case belongs to the petitioner, however, he had given the said vehicle to one Hada Ali and Jitu Ali of his village for past few months on verbal agreement and as the petitioner does not have any suitable place for parking his vehicle and as such, the said vehicle was parked at the premises of Hada Ali.

8) It is also submitted by learned counsel for the petitioner that the petitioner is no way involved in the offense alleged in the FIR as his only fault is that he had given on rent his vehicle to Hada Ali and Jitu Ali on oral agreement.

9) On the other hand, learned Additional Public Prosecutor has produced the case diary of Rangia P. S. Case No. 570/2023 and has submitted that as the contraband seized in this case is of commercial quantity, the embargo of Section 37 of the NDPS Act, 1985 is applicable in this case.

10) I have considered the submissions made by learned counsel for both sides and have perused the materials available on record, including the case diary of Rangia P. S. Case No. 570/2023.

11) On perusal of the case diary, it appears that at this stage, prima facie, there appears to be material against the present petitioner in the case diary and as the seized contraband is of commercial quantity. Hence, the prayer for Bail of the above-named petitioner is rejected at this stage.

JUDGE

Comparing Assistant