

GAHC010012052024



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

Case No. : Bail Appln./216/2024

ABDUL BASIR BHUYAN
S/OMALEK BHUYAN
PERMANENT RESIDENT OF VILL- BORBALA
P.S. HAWLY
DIST. BARPETA, ASSAM
PIN NO. 781316

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N K MURRY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 16-02-2024

- 1.** Heard Mr. N.K. Murry, learned counsel for the petitioner.
- 2.** The petitioner, namely, Abdul Basir Bhuyan has filed this application under

Section 439 Cr.PC with prayer for bail as he is behind bars since 04.10.2023 in connection with NDPS Case No. 66/2023 arising out of Borpathar P.S. Case No. 21/2023 registered u/s 21(C)/29 of the NDPS Act (G.R. Case No. 157/2023).

3. Heard Mr. B.B. Gogoi, learned Addl. PP, Assam.

4. The learned counsel for the petitioner has submitted that the petitioner has been languishing in the jail for 304 days since 04.10.2023. His personal liberty has been curtailed. Only 3 witnesses out of 9 enlisted witnesses have been examined. It is unlikely that trial would be concluded soon in the near future. The petitioner will suffer immensely if he is behind bars only for the sake of the procrastination of the trial.

5. The learned Addl. PP, Assam has raised objection stating that the 3 PWs who have been examined has implicated the petitioner. This cannot be considered to be a case where the personal liberty has been curtailed because 3 out of 9 witnesses have already been examined. The rigour under Section 37 of the NDPS Act acts as an embargo.

6. I have considered the submissions at the Bar with circumspection. Indeed the rigour under Section 37 of the NDPS Act comes into play at this juncture. It is true that the petitioner is behind bars for 304 days but at the same time this cannot be considered to be a case where personal liberty has been curtailed due to procrastination of trial by the prosecution or the Court.

7. Petition is rejected at this stage.

8. However, petitioner is at liberty to apply for bail in case trial is procrastinated any further and the petition may be disposed of as per merits of the case.

9. The trial Court is directed to expedite the trial for speedy disposal of the case.

JUDGE

Comparing Assistant