

GAHC010014892024



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

Case No. : AB/201/2024

HASSAN UDDIN AND ANR.
S/O LATE RASID ALI
R/O VILL- MAMODPUR
P.S. AND DIST. KARIMGANJ

2: SAMIM UDDIN
S/O MAYNA MIYA
R/O VILL- MAMODPUR
P.S. AND DIST. KARIMGANJ

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-02-2024

Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. R. J. Barua, learned Additional Public Prosecutor for the State respondent.

This application, under Section 438 of the Code of Criminal Procedure, is preferred by two applicants namely, 1. Hassan Uddin and 2. Samim Uddin, who have been apprehending arrest in connection with Special NDPS Case No. 08/2023, under Sections 22[c]/25/29 of the NDPS Act, for grant of pre-arrest bail.

The said case has been registered on the basis of one FIR lodged by SI Badru Zaman Ahmed, on 17.01.2023. The essence of allegations made in the FIR is that acting on a tip off the informant along with his staff, intercepted one Alto vehicle, bearing registration No. AS-10-A-6487, and found one person namely, Haiduz Zaman and on being searched, 4 nos. of gummy bags containing 75 nos. of brown packets and 46 nos. of loose blue packets of Yaba tablets were recovered and seized the same, preparing seizure list in presence of witnesses.

Mr. Ahmed, learned counsel for the applicants submits that the applicants are no way involved with the offence alleged in the FIR and nothing has been found in their possession and only on the basis of statement of the co-accused, the applicants have been shown as absconder in the charge sheet, which is submitted before the learned Special Judge, NDPS Act, Karimganj and then the learned court below has issued summon to the applicants. Mr. Ahmed further submits that the applicants are ready to face trial and that they will appear before the learned court below, on each and every date. Mr. Ahmed also submits that in view of the given facts and circumstances, on the record the petition may be allowed.

On the other hand, Mr. Barua, learned Additional Public Prosecutor has vehemently opposed the petition.

Having heard the submissions of learned Advocates of both sides, I have

carefully gone through the petition as well as the documents placed on record and also perused the scanned copy of the record received from the learned court below.

It appears that the applicants have been charge sheeted showing them as absconder in the charge sheet, under Sections 22[c]/29 of the NDPS Act. Further, it appears that the learned court below has issued summon to the accused. It is also being assumed that the accused are ready to face trial and will appear before the learned court below on each date.

Having considered the submissions of learned counsel for both the parties and also considering the facts and circumstances on the record, this court is inclined to dispose of this application by directing the applicant to appear before the learned Special Judge, NDPS Act, Karimganj on or before **11.03.2024**, and to apply for regular bail and in event of filing such an application, the learned Court below shall consider the same in accordance with law.

Till then, it is provided that in the event of arrest of the applicants in connection with Special NDPS Case No. 08/2023, under Sections 22[c]/25/29 of the NDPS Act, they shall be released on interim pre-arrest bail on their execution of bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the arresting authority.

The above privilege is however subject to the following conditions:-

[i] The applicants shall appear before the learned Special Judge, NDPS Act, Karimganj, on or before **11.03.2024**.

[ii] The applicants shall not leave the jurisdiction of the learned court below without prior permission; and

[iii] The applicants 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

them from disclosing such facts to the Court or to any Police Officer.

In terms of above, this AB stands disposed of.

JUDGE

Comparing Assistant