GAHC010017352024

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

Case No. : Bail Appln./282/2024

NURJAMAL
S/O- LATE SUKUR ALI, RESIDENT OF VILLAGE- SHASRINAGAR, P.O. GOALPARA, P.S. GOALPARA, DISTRICT- GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 25.04.2024

Heard Mr. S.K. Talukdar, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor appearing for the State.

2. This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Nurjamal,** in connection with **SPL (NDPS) Case No.**

32/2023, registered under Section **22(c)/29 of NDPS Act, 1985,** pending in the court of learned Special Judge, Goalpara**.**

3. The learned counsel for the petitioner submits that no any contraband item was seized from the possession of the present petitioner. It is also submitted that on the basis of the statement of the co-accused, the present petitioner was arrested. It is further submitted that there is gross violation of Section 42 of NDPS Act which is mandatory in nature. It is also submitted that three witnesses have already been examined in this case but no any witness has implicated the present petitioner to be involved in this case. According to the learned counsel for the petitioner that the petitioner has been languishing in judicial custody for more than eight months since 29.07.2023. Therefore, the learned counsel for the petitioner has prayed that considering the period of detention as well as the background of the case, the petitioner may be enlarged on bail.

In support of his submission, the learned counsel for the petitioner has placed reliance on the following case laws-

(i) Karnail Singh v. State of Haryana, reported in (2009) 8 SCC 539; (ii) Sarija Banu @ Janarthani @ Janani & Anr. v. State through Inspector of Police, reported in (2004) 12 SCC 266.

4. On the other hand, Ms. Begum, learned Additional Public Prosecutor for the State has submitted that nothing was recovered from the possession of the petitioner. She further submits that at this stage, bail may not be considered to the petitioner.

5. I have considered the submissions made by the learned counsel for the

parties. I have also perused the scanned copy of trial court record.

6. It appears from the record that the suspected contraband was not recovered from the possession of the present petitioner. As per FIR, during interrogation at the spot, the apprehended persons namely, Momtaz Ahmed, Giasuddin and Mohor Ali had stated that the consignment brought to Goalpara by the present petitioner i.e. Nurjamal and Jabbar Hussain @ Babu. Accordingly, both the persons were arrested.

7. In view of the above and considering the length of detention of the petitioner, this Court is of the view that the accused/petitioner may be enlarged on bail.

8. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **SPL (NDPS) Case No. 32/2023,** registered under Section **22(c)/29 of NDPS Act, 1985,** on furnishing bail bond of **Rs.50,000/- with one suitable surety** of the like amount to the satisfaction of learned Special Judge, Goalpara, Assam.

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

(i) shall not leave the territorial jurisdiction of learned Special Judge, Goalpara, Assam, without prior written permission from him/her;

(ii) 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.

(iii) The learned Special Judge, Goalpara, Assam will be at liberty to

impose any condition(s) while releasing the petitioner on bail.

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

JUDGE

Comparing Assistant