

GAHC010017852024



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

Case No. : Bail Appln./299/2024

HABIJAR RAHAMAN @ HAFIJUR RAHAMAN
S/O- MANCHHAR ALI, R/O- SUKARURKUTHI, P.S. SAHEBGANJ, DISTRICT-
COOCH BEHAR, WEST BENGAL

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

22.05.2024

Heard Mr HRA Choudhury, learned Senior Counsel for the petitioner, Habijar Rahaman @ Hafijur Rahaman.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973, with prayer for bail, as he is behind bars since 17.08.2023., in connection with Special (N) Case No. 153(M)/2023, arising out of Manikpur PS Case

No. 151/2023, registered under Sections 22(C)/25/29 of the NDPS Act.

3. Heard Mr B Sarma, learned Additional Public Prosecutor for the State of Assam/respondent.

4. The FIR unfolds that on a tip-off, on 17.08.2023, at around 12:10 AM midnight, the investigating team conducted search operation near AIE Field Petrol Pump. They were waiting for the target to approach and at about 12:30 am, a Maruti 800, bearing Registration No. 01-UI600, reached the spot. The vehicle was searched and 4.892 Kgs of Yaba Tablets were found inside the vehicle.

5. It is submitted on behalf of the petitioner that the petitioner was travelling from Cooch Bihar to Bongaigaon. The petitioner was not at all aware of the tablets being carried in the vehicle. The petitioner is innocent.

6. The learned Additional Public Prosecutor has raised objection against the bail prayer of the petitioner.

7. I have considered the submissions at the Bar with circumspection.

8. It is true that the petitioner has been behind bars for 9 (nine) months, but trial has not yet commenced. However, the embargo under Section 37 of the NDPS Act cannot be ignored at this stage. It cannot be considered that the learned trial Court has protracted the trial. Charge sheet has already been laid against the petitioner.

9. At this juncture, I am not inclined to grant bail to the petitioner. Petition with prayer

for bail is rejected, at this stage.

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

11. The petitioner is at liberty to apply for bail if trial is procrastinated any further.

12. With the above directions and observations, this bail application stands disposed of.

JUDGE

Comparing Assistant