

GAHC010021632024



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

Case No. : Bail Appln./330/2024

MD. KHALILUR RAHMAN @ KHALILAR RAHMAN
SON OF MD. FAIJUR RAHMAN, RESIDENT OF LOCH, P.S. BAIHATA
CHARIALI, DISTRICT KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. Y S MANNAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

20.03.2024

Heard Mr. Y.S. Mannan, learned counsel for the petitioner. Also heard Mr. K.K. Das. Das, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Md. Khalilur Rahman @ Khalilar

Rahman, who has been shown arrested on 21.09.2023 in S.T.F. Police Station Case No. 06/2023, corresponding to NDPS Case No. 01/2024 under Section 21(c)/29(1) of the NDPS Act, 1985.

It appears from record that on an earlier occasion also, when the petitioner approached this court, his prayer for bail was rejected by this court by order dated 05.01.2024 in Bail Application No. 4128/2023 on the ground that the quantity of contraband involved in this case was commercial quantity and the embargo of Section 37 of the NDPS Act, comes into play in this case.

Learned counsel for the petitioner has submitted that the petitioner has been shown arrested in this case after 70 days of filing of the charge-sheet that too on the basis of the statement made by the co-accused, namely, Mafijul Haque.

It is submitted by the learned counsel for the petitioner that apart from the statement of co-accused no other material is available on record and hence, he has prayed for allowing the petitioner to go on bail.

On the other hand, learned Additional Public Prosecutor by referring to the charge-sheet, copy of which is available before this court, has submitted that there are materials in this case to show that there was transaction of large amount of money between the accused persons, i.e. the present petitioner and the co-accused Mafijul Haque and because nothing common was found between them except their complicity in illegal drug trades, materials are there against the present petitioner under Section 29 of the NDPS Act, 1985.

I have considered the submissions made by the learned counsel for both the sides and perused the materials available on record.

On perusal of the charge-sheet, it appears that apart from the statement of the co-accused there are other materials, which implicates the present

petitioner in this case and as this case involves contraband of commercial quantity, the embargo of Section 37 of the NDPS Act, comes into play and the petitioner has not been able to convince this court that there are materials to overcome the said embargo.

Hence, the prayer for bail of the present petitioner is rejected.

With the above observations, this bail application is accordingly dismissed.

JUDGE

Comparing Assistant