

GAHC010022502024



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

Case No. : Bail Appln./375/2024

FAROOQ SHEIKH
R/O VILL- WARD NO. 14, AMCO ROAD,
P.S. DHUBRI, IN THE DISTRICT OF DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ, MR S A BARBHUYAN, MR A W AMAN, MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM,

Linked Case : Bail Appln./4485/2023

RAFIQUL SIKDAR @ ROFIQUL ISLAM
S/O LT. KHALEQ SK.
R/O WARD NO. 10
BIDYAPARA
P.S. DHUBRI
IN THE DISTRICT OF DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP
ASSAM

Advocate for : MR A W AMAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

17.12.2024

1. Heard Mr. S. Das, learned counsel for the petitioners Farooq Sheikh and Rafiqul Islam @Rofiqul Islam and Mr. B. Sharma, learned Additional Public Prosecutor, Assam for the respondent State.
2. The petitioner has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as they are behind bars for 600 (Six Hundred) days where the petitioner Farooq Sheikh was arrested on 29.04.2023 in connection with Special Case No. 199/2023 arising out of Dhubri P.S. Case No. 196/2023 under Sections 22(C) of the NDPS Act in Bail.Appln./375/2024 and the petitioner Rafiqul Islam @Rofiqul Islam was arrested on 27.04.2023 in connection with Special Case No. 199/2023 arising out of Dhubri P.S. Case No. 196/2023 under Sections 22(C) of the NDPS Act in Bail.Appln./4485/2024.
3. It is submitted on behalf of the petitioners that the petitioner has been languishing in the jail for 600 days. 16 witnesses have been enlisted in the charge-sheet and only 10 witnesses have been examined so far. The possibility of conclusion of trial appears to be remote as 6 witnesses are yet to be examined. The petitioners were not found in possession of the contraband. The petitioners have been incarcerated only on the basis of the statements of the co-accused and thus the petitioners are entitled to bail. 3 seizure witnesses have been examined and the seizure witnesses have not at all incriminated the petitioners. The seizure witnesses have not supported the prosecution case and there is every possibility that the petitioners may be acquitted in connection with this case which will result in wrongful incarceration of the petitioners.

4. Learned Additional Public Prosecutor has raised serious objection stating that this case is at the fag end of the trial. 10 witnesses have already been examined so far and only 6 witnesses are left to be examined. 37 bottles of cough syrup and 89 tramadol tablets have been recovered in connection with this case.
5. I have considered the submissions at the Bar with circumspection.
6. It is true that trial has been protracted, but at the same time, considering the facts and circumstances of this case, it cannot be conclusively held that the trial has been procrastinated by the prosecution or by the Court. The rigors of Section 37 of the NDPS Act comes into play. It cannot be ignored that already 10 out of 16 enlisted witnesses have been examined. There is every probability that trial may be concluded soon.
7. Considering all aspects, petitions with prayer for bail is rejected at this stage.
8. However, the petitioners are at liberty to file subsequent bail petition, if trial is procrastinated any further.
9. The Trial Court is directed to expedite the trial for speedy disposal of this case.

JUDGE

Comparing Assistant