

GAHC010026922024



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

Case No. : Bail Appln./372/2024

MITHUN CHAKRABORTY
S/O MRITHUNJOY CHAKRABORTY
R/O VILL- BHAGMARA, P.S. SILCHAR
DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LD. PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. K MALAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

01.03.2024

Heard Ms. K. Malakar, learned counsel for the accused and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Mithun Chakraborty**, who has been languishing in jail hazot, in connection with the **Bongaigaon G.R.P.S. Case No. 05/2024**, under Sections 20(b)(ii)(B) of the NDPS Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by WASI Purnima Choudhury, on 16.01.2024. The essence of allegations made in the FIR is that on 16.01.2024, at about 9:18 am, acting on a tip off, she along with her staff conducted search in the Train No. 14037 Poorvottar Sampark Kranti Express and at coach No. A3, seat No. 45, they have found one namely, Mithun Chakraborty and recovered 12.7 kgs of Ganja from his possession.

4. Ms. Malakar, learned counsel for the accused submits that the accused was arrested on 17.01.2024, and since then he has been languishing in jail hazot for last 43 days. Ms. Malakar further submits that the contraband substance recovered from the possession of the accused is an intermediate quantity and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Sarma, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the IO has collected some incriminating materials against the accused and therefore, it is contended to dismiss the petition. However, Mr. Sarma submits that the IO has examined some witnesses in this case and the case is now pending for collection of FSL report.

6. 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 Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused was arrested on 17.01.2024, and since then he has been languishing in jail hazot for last 43 days. Further, it appears that the IO has collected some incriminating material in support of the allegation made in the FIR, against the accused. It also appears that the IO has examined some witnesses in this case and the case is now pending for collection of FSL report.

8. Having considered above and also considering the period of detention and balancing the same with the offence alleged in the FIR and also considering the stage of investigation, this Court is of the view that his further custodial detention may not be required in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Special Judge, NDPS, Bongaigaon**, the accused persons be enlarged on bail.

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

11. The case diary be returned.

JUDGE

Comparing Assistant