

GAHC010032252024



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

Case No. : Bail Appln./488/2024

AMINUL ISLAM
S/O MD. JAMALUDDIN AHMED
C/O SAJAHAN ALI OF NIJORAPAR, SIXMILE,
P.S. DISPUR, DIST. KAMRUP (M), ASSAM
PERMANENT RESIDENT OF VILL- CHAMPURARA PATHAR,
P.S. CHAYYAGAON, DIST. KAMRUP (R), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 29.02.2024

Heard Mr. N. Ahmed, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor appearing for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by

the petitioner, namely, **Aminul Islam**, in connection with **Basistha P.S. Case No. 51/2024**, registered under Section 21(b) of NDPS Act, 1985.

It is submitted by the learned counsel for the petitioner that the petitioner has been detained in custody for the last 42 days. Though, as per seizure list, 29 gms of suspected heroin was seized from the possession of the present petitioner and the case was registered under Section 21(b) of NDPS Act. But as per inventory report certified by the learned Magistrate, only 4.45 gms (without plastic vials) suspected to be heroin was found from the possession of the present petitioner. According to the learned counsel for the petitioner that the quantity of suspected heroin is below 5 gms so that it falls under Section 21(a) of NDPS Act and the punishment of offence is extended to one year. Considering the background of the case as well as period of detention, bail may be granted to the petitioner.

On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has submitted that 4.45 gms suspected to be heroin was recovered from the possession of the petitioner as per inventory report certified by the learned Magistrate. Therefore, bail may be granted considering the length of detention.

I have considered the submissions made by the parties. I have also perused the scanned copy of LCR.

It appears that only 4.45 gms (without plastic vials) suspected to be heroin was recovered from the possession of the petitioner. Considering the fact as well as the length of detention of the petitioner, this Court is of the view that further custodial detention of the accused-petitioner is not necessary.

Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Basistha P.S. Case No. 51/2024**, registered under Section

21(b) of NDPS Act, on furnishing bail bond of **Rs.50,000/- with two suitable sureties** of the like amount to the satisfaction of learned Special Judge, Kamrup(M), Guwahati.

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

- (a) shall not leave the territorial jurisdiction of learned Special Judge, Kamrup(M), Guwahati, without prior written permission from him/her;
- (b) 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 or to any police officer.

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

JUDGE

Comparing Assistant