

GAHC010033282024



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

Case No. : Bail Appln./489/2024

NAZRUL ISLAM
S/O ABDUL RAHMAN
VILL- BRAHMANSHASAN
P.S. NILAMBAZAR
DIST.KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 11-03-2024

Heard Mr. HR Choudhury, learned counsel for the petitioner as well as Mr. MP Goswami, learned APP for the State.

2. The application under section 439 Cr.P.C. is filed by the petitioner

seeking bail in connection with Special NDPS case no.80/2023 (arising out of Nilambazar PS case no.125/2023) under section 22(c)/25/29 of the NDPS Act, pending in the Court of Addl. Session Judge, Karimganj.

3. It is submitted by the learned counsel for the petitioner that the petitioner is suffering from permanent disability on right lower limbs. He is no way connected with the alleged offence leveled up in the FIR. As he is suffering from motor neuron disease, as such he could not walk properly. So there is no question of accompanying the other accused at the relevant point of time from whom the contraband items were recovered.

4. It is further submitted that no any narcotic substances were recovered from the possession of the present petitioner. From the FIR and seizure list, it reveals that the police recovered the narcotic substances from the ground. The petitioner is a physically challenged person for which he could not move properly and at the time of apprehending the other accused, the police found him nearby to the offender and he was arrested purely on suspicion.

5. It is further submitted that the accused petitioner has been detained in custody for last one year. In view of the health condition of the petitioner, the learned counsel prays that the accused petitioner be released on bail in any condition.

6. Per contra, the learned APP submits that commercial quantity of narcotic substances were recovered from the possession of the present petitioner and the other co-accused. The seizure list also has supported the fact.

The medical report as called for from the jail hospital, Karimganj states that currently the accused petitioner is undergoing conservative treatment at Karimganj district jail and has partially recovered.

7. According to the learned APP, as the petitioner was advised to take treatment at Gauhati Medical College and Hospital, the jail authority may take steps for treatment of the present petitioner at GMCH. However, the petitioner may not be released on bail at this stage of trial.

8. I have considered the submissions of the learned counsel of the parties. I have also perused the medical report of Medical and Health Officer, District Jail, Karimganj which reveals that the accused petitioner is suffering from motor neuron disease (pheripheral neuropathy). He had undergone treatment at Silchar Medical College and Hospital. He was advised for further treatment at Neurology Department at GMCH. Currently, he is undergoing conservative treatment at Karimganj District jail and has partially recovered.

9. One discharge certificate of SMCH is available in the record which reveals that the petitioner was admitted to SMCH on 11.09.2023 and discharged on 19.09.2023. On examination, of the accused petitioner, it was diagnosed as pheripheral neuropathy (motor neuron disease). The doctor prescribed some medicine and injection to the petitioner and physiotherapy was done. The petitioner was advised to attend the Department of Neurology, GMCH.

10. Under such backdrop, the Superintendent District Jail, Karimganj is directed to provide proper treatment to the accused petitioner inside the jail and

on requirement, he is also directed to make arrangement to send the accused petitioner to attend Neurology Department, GMCH.

11. However, the bail application is rejected and disposed of accordingly.

JUDGE

Comparing Assistant