

GAHC010038752024



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

Case No. : Bail Appln./607/2024

JABIR HUSSAIN
SON OF ANSAR ALI, RESIDENT OF VILLAGE- ALAPUR, P.S. PATHARKANDI,
DISTRICT- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D K BAGCHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

22.04.2024

Heard Ms M Devi, learned counsel appearing on behalf of Mr D K Bagchi, learned counsel for the petitioner, Jabir Hussain.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail, as he is behind bars since 06.02.2022, in connection with Special NDPS Case No. 67/2021, arising out of Patharkandi PS Case No. 404/2021, registered under Sections

20(C)/29 of the NDPS Act.

3. Heard Mr K Baishya, learned Additional Public Prosecutor for the State of Assam.
4. The allegation is that huge quantity of drugs was being trafficked from the house of one Habibullah. A search operation was conducted by the Investigating team in Habibullah's house. When they knocked at the door, the door was opened by a person, who identified himself as Nasiruddin, but the present petitioner along with four others fled from the house from the other door of Habibullah's house. The Police pursued them but could not apprehend them, but the Police, however, managed to apprehend Nasiruddin. The Police recovered 20,000 WY Tablets, weighing 2.82 kgs, including plastic packets.
5. The learned counsel for the petitioner has submitted that the co-accused, Nasiruddin and Habibullah have already been enlarged on bail.
6. The learned Additional Public Prosecutor has raised serious objection stating that the petitioner along with the other accused, who fled the scene were absconding. Charge sheet was submitted and finally the petitioner was arrested and forwarded to custody. The conduct of the petitioner does not entitle him to bail. Moreover, the rigour of Section 37 of the NDPS Act, acts as an embargo.
7. I have considered the submissions at the Bar with circumspection. I have also scrutinized the Trial Court Record.
8. Trial has commenced and is progressing at a regular pace. It cannot be said that the

trial has been procrastinated and the petitioner's Right to Liberty has been curtailed due to procrastination of trial by the Court or by the prosecution. It is because of the petitioner's conduct that the trial has protracted. Four witnesses have already been examined. Only seven witnesses are enlisted as prosecution witnesses in the charge sheet. At this juncture, there appears to be no justified ground to grant bail to the petitioner. However, the learned trial Court is directed to expedite the trial for the speedy disposal of the case.

9. Petition with prayer for bail is rejected at this stage, with a liberty to the petitioner to apply for bail later, if trial is procrastinated any further.

10. Bail Application stands disposed of.

JUDGE

Comparing Assistant