

GAHC010041392024



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

Case No. : Bail Appln./550/2024

KHUDEJA KHATUN
W/O LATE ABDUL KHALEK
RESIDENT OF JAMUHANDAL WARD NO. 4, PO PADUM PUKHURI, PS AND
DIST HOJAI, ASSAM

2: SRI ATAUR RAHMAN
S/O LATE ABDUL KHALEK
RESIDENT OF JAMUHANDAL WARD NO. 4
PO PADUM PUKHURI
PS AND DIST HOJAI
ASSA

VERSUS

THE STATE OF ASSAM
REP PP ASSAM

Advocate for the Petitioner : MD NURUL HASAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 21-03-2024

Heard Mr. N. Hasan, learned counsel for the accused/petitioner. Also heard

Mr. M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused/petitioners, namely, (i) **Smti. Khudeja Khatun** and (ii) **Sri Ataur Rahman**, in connection with Special (NPDS) Case no. 02/2024 registered under Section 21(c)/29 of the NDPS Act, pending in the court of learned Special Judge, Hojai.

3. Learned counsel for the petitioners has submitted that no any contraband was recovered from the petitioners. As per seizure list, ganja was seized from the roof of the toilet and the petitioner no. 1 i.e. the wife of the petitioner no. 2 had practically no knowledge regarding keeping of contraband on the roof of the toilet.

4. The learned counsel for the petitioners also submits that both the petitioners have been detained in custody since 09.08.2023 but charge has not yet been framed. As per offence report, 8 witnesses to be examined in the case as such it will take time to complete the trial of the case. Considering the length of detention, the petitioners may be enlarged on bail.

5. Learned Additional P.P., on the other hand, has submitted that commercial quantity of narcotic substances were recovered from the residential campus of the petitioners. There is no explanation from the side of the petitioners why they kept such contraband items inside their campus. It is further submitted that the case was initiated on 09.08.2023 on the date of detection of the petitioners along with narcotic substance. After completion of investigation, charge sheet has been submitted on 05.01.2024. As commercial quantity of ganja was recovered from the homestead area of the petitioners, bail may not

be considered.

6. The scanned copy of trial court record is received which reveals that charge sheet has been submitted on 05.01.2024 against five accused. Accused Nur Ali is shown as absconder in the charge sheet and summons were issued to the absconder accused but police has failed to arrest the absconder accused. Under such backdrop, it cannot be said that there has been an inordinate delay for commencement of the trial.

7. In view of the above, the bail application is rejected. However, the petitioners are at liberty to approach before the trial court seeking bail on subsequent stages of trial.

8. The bail application stands disposed of.

JUDGE

Comparing Assistant