

GAHC010049082024



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

Case No. : Bail Appln./701/2024

ABDUL KAIYAM @ MD. ABDUL KAIYAM
S/O MOKBUL HUSSAIN, VILL- JHOWDANGA PT. II (KECHAIBHITA), P.O.-
JHOWDANGA, P.S.-MANKACHAR, DIST-SOUTH SALMARA MANKACHAR,
PIN-783131

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01.04.2024

- 1.** Heard Mr. M. U. Mondal, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Abdul Kaiyam @ Md. Abdul Kaiyam* who has been detained behind the bars since 15.02.2024 (for last 47 days) in connection with Chaygaon P.S. Case No. 62/2024 under Section 21(b)

of the NDPS Act, 1985.

3. The gist of accusation in this case is that one Ujjal Kumar Das, SI of Chaygaon Police Station on 15.02.2024 had lodged an FIR before the Officer-in-charge of Chaygaon Police Station, *inter alia*, alleging that on that date on receipt of the reliable information through secret source that some narcotic drugs would be carrying in a night Super Bus bearing Registration No. AS-01-FC-3133, a naka checking was conducted at Kukurmara under Chaygaon Police Station and during the naka checking operation the night Super Bus bearing Registration No. AS-01-FC-3133 was intercepted at Kukurmara and during the search operation 3 pouch containing brown coloured substance suspected to be heroin were found inside a bag from the possession of the present petitioner and on weighing of the said contraband, it was found to be 37 grams.

4. The learned counsel for the petitioner has submitted that the contraband was not found from his possession as it was found in a bag which does not belong to the petitioner. It is also submitted that the maximum period for which the petitioner may be detained for the offence under Section 21(b) is 60 days whereas the petitioner has already completed 47 days behind the bars.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary of Chaygaon P.S. Case No. 62/2022 and has submitted that there are incriminating materials against the present petitioner in the case. However, the Investigating Officer has not yet collected the forensic laboratory report. He has opposed the grant of bail to the present petitioner. It is also submitted that the petitioner in his statement under Section 161 of the Code of Criminal Procedure, 1973 has admitted that he used to pedal the drugs.

6. I have considered the submission made by learned counsel for both the

sides and have perused the materials available on record.

7. Though, there are incriminating materials against the present petitioner in the case diary, however, considering the progress made in the investigation as well as considering the fact that the petitioner has been detained behind the bars for last 47 days, this court is of considered the opinion that his further custodial detention may not be necessary, if he otherwise cooperates in the investigation.

8. In view of the above, the above named petitioner is allowed to go on a bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the learned Special Judge, Kamrup with following conditions:-

- i. That the petitioners shall cooperate in the investigation and shall appear before the Investigating Officer;
- ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer;
- iii. That the petitioner shall not indulge in any similar offence with which he has been accused of in this instant case.

9. With the above observation, this bail application is hereby disposed of.

10. Send back the case diary.

JUDGE

Comparing Assistant