

GAHC010059732024



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

Case No. : Bail Appln./834/2024

MUNNES KHAN
S/O SURUT JAMAL KHAN
R/O VILL- BECHIMARI PAM
UTTAR BURIKHAMAR
P.O. BURIKHAMAR
P.S. SARTHEBARI
DIST. BARPETA, ASSAM
PIN-781309

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:OFFICER IN CHARGES STF POLICE STATION
SRIMANTAPUR
CHILARAI NAGAR
GUWAHATI
ASSAM
PIN-78100

Advocate for the Petitioner : MR. SK N MOHAMMAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20-06-2024

- 1.** Heard Mr. SK. S. N. Mohammad, learned counsel for the petitioner. Also

heard Mr. B. B. Gogoi, 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, *Munnes Khan*, for seeking bail in connection with STF Case No. 04/2024 under Section 21(c)/29 of NDPS Act, 1985. The petitioner was arrested on 03.03.2024 and has been detained since then (for last 107 days).

3. The gist of accusation is that on 03.03.2024 one Bishal Gorshai, SI of Police had lodged an FIR before the Officer-in-charge of STF Police Station, Assam, *inter alia*, alleging that on receipt of the information through reliable sources that some peddlers will be transporting some narcotic drugs from the rented premises of the accused persons at Pragjyotishnagar under Jalukbari Police Station and a team of Police was constituted and a search operation was made in the rented premises of the accused persons, namely, Abidur Rahman and Munnes Khan (present petitioner) and during search operation, 34 packets containing heroin weighing about 414 grams were recovered from the said premises.

4. The learned counsel for the petitioner has submitted that the petitioner is innocent person and he is not involved in the offence alleged in the FIR. It is also submitted that he has been detained behind the bars for last 107 days and he is a young person of 26 years of age. It is further submitted by the learned counsel for the petitioner that though the petitioner reside in the rented premises from where the contraband in this case was seized, however, it was seized from the other corner of the premises which was also inhabited by other co-accused.

5. On the other hand, learned Additional Public Prosecutor has opposed the grant of bail to the present petitioner on the ground that the contraband seized in this case is of commercial quantity and the embargo of Section 37 of the NDPS Act, 1985 is applicable in this case. He has also submitted that there are sufficient incriminating materials against the petitioner in this case and the investigation has already completed and the case is pending for submission of charge-sheet only.

6. I have considered the submissions made by learned counsel for both the sides and have perused the materials available on record including the case diary of STF Case No. 04/2024 which was called for in connection with this case.

7. It appears from the case diary that the heroin weighing about 414 grams in 34 packets were recovered from the rented room, where the present petitioner resides along with the co-accused. It also appears that there are sufficient incriminating materials against the present petitioner in this case and, therefore, it appears that the embargo of Section 37 of the NDPS Act, 1985 is applicable in this case. Hence, the petitioner is not entitled to get bail.

8. The prayer for bail is, accordingly, rejected.

9. Send back the case diary.

JUDGE

Comparing Assistant