

GAHC010061502024



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

Case No. : AB/788/2024

MANTU MIAH
S/O LATE TOTA MIA, R/O NABINNAGAR, P.S.-BISHALGARH, DIST-
SIPAHIZILA, TRIPURA, PIN-799102

VERSUS

THE UNION OF INDIA (DIRECTORATE OF REVENUE INTELIGENCE)
TO BE REPRESENTED BY THE CENTRAL GOVT. STANDING COUNSEL,
GAUHATI HIGH COURT, GUWAHATI-781001

Advocate for the Petitioner : MR. M H RAJBARBHUIYAN

Advocate for the Respondent : SC, DRI

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 31.05.2024

Heard Mr. M. Rana, learned counsel for the petitioner. Also heard Mr. S.C. Keyal, learned Standing counsel, NCB.

2. By filing this bail application under **Section 438 Cr.P.C.**, the petitioner, **Mantu Miah** has prayed for pre-arrest bail, who is apprehending arrest in connection with **Departmental Case No.**

02/CL/NDPS/DRI/SIL/2023-24.

3. It is submitted by the learned counsel for the petitioner that the petitioner is the owner of a truck bearing Regd. No. TR-01-AR-1648 from which 47 kg of suspected Amphetamine/Methamphetamine tablets were recovered. Accordingly, the instant case was registered and the driver and the helper were arrested in connection with this case. It is also submitted that notice under Section 67 NDPS Act was issued against the petitioner. It is further submitted that the petitioner has no knowledge about the transportation of such items in his truck. It is also submitted that the petitioner is an old aged person. Considering the background of the case and the nature of the offence, benefit of pre-arrest bail may be extended to the petitioner.

In support of his submission, the learned counsel for the petitioner has placed reliance on a case law-

Khalil Uddin & Anr. vs. Union of India & Anr. reported in 2022(3) GLT 839.

4. On the other hand, Mr. Keyal, learned Standing counsel, NCB has vehemently objected to the prayer of the petitioner by stating that the petitioner is very much involved in the alleged offence and there is sufficient incriminating materials found in the case diary against the petitioner. It is also submitted that 47 kg of narcotic substances were seized in connection with this case. Considering the nature of offence, the prayer of the petitioner may not be considered at this stage.

In support of his submission, learned Standing counsel, NCB has

placed reliance on a case law-

The State of Haryana vs. Samarth Kumar, reported in (2022) 0 Supreme (SC) 1562.

5. By referring the judgment, the learned Standing counsel has pointed out that Hon'ble Supreme Court has held that in cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh vs. State of Tamil Nadu, reported in (2021) 4 SCC 1, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial. To grant anticipatory bail in a case of this nature is not really warranted.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the relevant documents available in the record.

7. It appears that the petitioner is the owner of the truck from which commercial quantity of contraband was recovered. It is not acceptable, without the knowledge of the petitioner such large quantity of narcotic substances were transported from one State to another. Considering the fact as well as background of the case, this Court is not inclined to grant bail to the petitioner. Hence, prayer for bail is rejected.

8. The pre-arrest bail application stands disposed of accordingly.

JUDGE

Comparing Assistant