

GAHC010062392024



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

Case No. : Bail Appln./897/2024

THANGJAM TIKENDRA SINGH
S/O THANGJAM MANI SINGH
R/O TOLENGRAM. P.S.- LAKHIPUR,
DIST. -CACHAR (ASSAM)
PRESENTLY RESIDING AT H.NO. 8, A.M. ROAD, NEAR ARYA HOSPITAL, P.O.
ULUBATI, P.S. PALTAN BAZAR, GUWAHATI -781007, DIST-KAMRUP(M),
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R SEKHAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 10-04-2024

Heard Mr. R. Shekhar, learned counsel for the accused-petitioner and Ms. S.H. Bora, learned Additional Public Prosecutor for the respondent State of

Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973, the accused-petitioner viz. Sri Thangjam Tikendra Singh has prayed for his release on bail in connection with Jagiroad Police Station Case no. 34/2024, registered for the offence under Sections 21[b], Narcotic Drugs and Psychotropic Substances [NDPS] Act, 1985.

3. The First Information Report was lodged by a Sub-Inspector of Police attached to Jagiroad Police Station on 11.02.2024 stating *inter alia* to the effect that on receipt of an information from reliable source, a vehicle bearing registration no. AS-01/EV-4405 [Mahindra XUV 300] which was heading towards Guwahati, was intercepted near the Indian Oil Petrol Pump, Pachim Nagaon at about 05-30 p.m. on 11.02.2024. The accused-petitioner was driving the said vehicle. On being searched, two nos. of red colour plastic soap cases, wrapped by a white colour polythene, containing suspected contraband [heroin], were found concealed under the front dashboard box of the vehicle. On being weighed, the suspected contraband [heroin] was found to be weighing 26 grams without soap cases and 79 grams with soap cases. The accused-petitioner was apprehended and produced before the court of learned Chief Judicial Magistrate, Morigaon on 12.02.2024. On being so produced, the accused-petitioner was remanded to police custody first and thereafter, to judicial custody.

4. Mr. Shekhar, learned counsel for the accused-petitioner has submitted that since 12.02.2024, the accused-petitioner is in custody and, thus, he is in custody for a period of 59 days till date. He has submitted that by an Order dated 28.03.2024, the concerned case diary along with the FSL report was

called for. It is his submission that considering the period of detention, it is evident that the accused-petitioner has been thoroughly interrogated during the period of custody. Considering the facts that the amount of alleged contraband suspected to be heroin, weighed about only 26 grams, the same would fall above small quantity but below commercial quantity as per the provisions contained in Section 21[b] of the NDPS Act and the accused-petitioner being a resident of Guwahati, the accused-petitioner may be released on bail with conditions, as there is no chance of his absconding.

5. Ms. Bora, learned Additional Public Prosecutor who has received the concerned case diary, has submitted that sufficient incriminating materials are available against the accused-petitioner. Ms. Bora has, however, fairly submitted that the FSL report as regards the suspected contraband [heroin] has not yet been received though the sample was forwarded to the FSL on 13.02.2024. It is further submitted by Ms. Bora that the investigation is likely to be completed at the earliest and, therefore, the accused-petitioner may not be released on bail at this stage.

6. I have considered the submissions of the learned counsel for the parties and have also gone through the materials, collected during the course of investigation carried out so far, as available in the case diary. The investigation of the case appears to have progressed sufficiently but the FSL report in respect of the sample of the suspected contraband substance [heroin], sent to the FSL on 13.02.2024, is not found available in the case diary.

7. Considering the facts that the accused-petitioner is in custody for a period of 59 days till date since 12.02.2024; that the FSL report is not available as regards the suspected contraband, weighed about 26 grams and seized on 12.02.2024; has not yet been obtained; that the investigation of the case has

sufficiently progressed; and that there is no material in the case diary which go to indicate that the accused-petitioner, presently a resident of Guwahati, has been previously arrested in connection with any crime; I am of the considered view that further custodial detention of the accused-petitioner for the purpose of carrying out investigation of the case is not necessary, provided he continues to extend his assistance and cooperation in the further investigation of the case.

8. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with two local sureties of the like amount to the satisfaction of the learned Special Judge, Morigaon, subject to the following conditions :-

1. The accused-petitioner shall appear before the Investigating Officer of the case once in the first week of every month till submission of the charge sheet and shall cooperate with the investigation of the case;
2. The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
3. The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
4. The accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and
5. The accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if

charge sheeted in the case.

9. The bail application stands disposed of in the aforesaid terms.
10. The case diary be returned back.

JUDGE

Comparing Assistant