

GAHC010064362024



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

Case No. : Bail Appln./917/2024

JOYCHARAN BISWAS
S/O LATE GUDDU BISWAS
VILL- DOLOHAT NO. 30 FC GRANT,
P.S.LALUK
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MOTIUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 22-05-2024

- 1.** Heard learned counsel Mr. M. Rahman for the petitioner.
- 2.** The petitioner namely, Joycharan Biswas has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 28.01.2022 in connection with

Special NDPS Case No. 1/2022 arising out of Laluk P.S. Case No. 434/2021 u/s 20(C)/29 of the NDPS Act pending in the Court of the learned Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur.

3. Heard Mr. P.S. Lahkar, learned Addl. PP., Assam

4. It is submitted on behalf of the petitioner, that the petitioner is behind bars for more than 3 months. The last witness examined was PW-4. This witness was examined on 05.11.2022 and thereafter not a single witness was examined so far.

5. I have perused the scanned copies of the LCR and I have considered the submissions at the Bar with circumspection. The last witness was examined on 05.11.2022 according to the status report forwarded by the learned trial Court. I have also considered the submission that the main accused has already been enlarged on bail. Moreover the petitioner who allegedly was in possession of 20.9 kgs of ganja is behind bars and since 05.11.2022 not a single witness has been examined. 17 witnesses are enlisted in the charge-sheet and out of 17 witnesses only 4 witnesses have been examined so far.

6. The learned counsel for the petitioner has submitted that the ganja seized in connection with this case was also not weighed properly. It is submitted that as per the notification dated 23.12.2022 prescribing the rules to be followed u/s 52A of the NDPS Act, 1985, the gunny bags and the packets containing ganja were not weighed separately and this would have resulted in lesser quantity of ganja.

7. I have also considered the submission that trial has been procrastinated as not a single witness has been examined since 5th November, 2022.

8. In view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 1,00,000/- (Rupees One lac only) with a suitable surety of like amount to the satisfaction of the learned trial Court under the conditions that:

i. The petitioner shall co-operate with the trial;

- ii. the petitioner shall not jump the bail;
- iii. the petitioner shall not exercise any threats or try to influence witnesses.

On breach of any bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant