

GAHC010064592024



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

Case No. : Bail Appln./924/2024

ABDUL KHALEQUE
S/O FASIYAT ALI
VILL- SINGIMARI PART-I
P.O. TISTERPAR
P.S. AND DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MD K RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 18.04.2024

Heard Mr. K. Rahman, learned counsel for the petitioner. Also heard Mr. R.G. Gogoi, learned Additional Public Prosecutor, Assam.

This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Abdul Khaleque** in connection with **Special (NDPS) Case No. 332/2023**

arising out of Dhubri P.S. Case No.370/2023 under Section 22(c) of the Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985.

It is submitted by the learned counsel for the petitioner that it was mentioned in the charge-sheet that as per FSL report, the seized capsule gave positive tests for tramadol, but the amount of tramadol present as per capsule was found to be 48.5 mg and the total number of capsule was 432. Therefore, the total weight would be below the commercial quantity. But the charge-sheet has been submitted under Section 22(c) which should have been filed under Section 22(b) of NDPS Act, where the mandatory period is 60 days. It is further submitted that the accused has been detained in custody since 14.09.2023. Therefore, the accused/petitioner may be entitled for default bail.

On the other hand, learned Additional Public Prosecutor has submitted that charge was framed in the case on 21.12.2023 and out of 9 witnesses, already 3 witnesses have been examined. As the trial is going on, learned Additional Public Prosecutor has made objection in granting bail to the petitioner at this stage.

I have considered the submissions made by the learned counsel for both the parties and also perused the trial court record. The FSL report shows that each capsule weighing 0.61 gm, total weight $432 \times 0.61\text{gm} = 263.52\text{ gm}$ which are commercial quantity. It also appears that charge was framed on 21.12.2023 and out of nine witnesses, three witnesses have already been examined.

In view of the above, at this stage, this Court is not inclined to grant bail to the petitioner. However, the learned trial court is directed to take initiative to dispose of the matter early.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant