

GAHC010066162024



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

Case No. : Bail Appln./935/2024

MD. ALTAF HUSSAIN @ ALTAF HUSSAIN
S/O LATE MEHAMUD KHAN
R/O VILL- LILONG HAOREI MAKHA LEIKAI, P.S. LILONG,
DIST. THOUBAL, MANIPUR.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 29-04-2024

Heard Mr. M. Khan, learned counsel for the petitioner Md. Altaf Hussain @ Altaf Hussain.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 (CrPC for short) with prayer for bail as he is

linguishing in jail for 276 (Two Hundred Seventy Six) days since 17.08.2023 in connection with Special (Nar) Case No. 153(M)/2023 arising out of Manikpur Police Station Case No. 151/2023 registered under Sections 22(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (the NDPS Act for short) and added Section 23(c)/27(A) of the NDPS Act.

3. It is submitted on behalf of the petitioner that five accused persons have been charge sheeted in this case. Trial has been procrastinated only because one accused is absconding. Other four accused are behind bars and the petitioner is also behind bars for 276 (Two Hundred Seventy Six) days. The petitioner's right to liberty has been curtailed by the prosecution and the Court as trial has not yet commenced due to the abscondence of one accused.

4. Heard Mr. K. Baishya, learned Additional Public Prosecutor for the respondent State.

5. It is submitted that the rigour of Section 37 of the NDPS Act acts as an embargo. The petitioner was arrested on conscious possession.

6. I have considered the submissions at the bar with circumspection.

7. The allegation against the petitioner is that he being the driver of Maruti-800 bearing registration No. AS01U1600, charge sheet has been laid against the petitioner. 4.892 kgs of Yaba tablets have been found in the fuel tank of the vehicle mentioned above. It is true that trial has not yet commenced only because of the absence of the one accused. However, the double pronged condition of Section 37 of the NDPS Act restricts bail to any accused booked under the aforementioned Sections of law. At this juncture, the petition with prayer for bail is rejected with a direction to the trial Court to expedite the trial and if necessary, to split up the case against the absconding accused and

proceed against the accused who are behind the bars.

In the above terms this Bail Application stands disposed of.

JUDGE

JUDGE

Comparing Assistant