

GAHC010066982024



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

Case No. : Bail Appln./944/2024

AMBIA BEGUM
W/O RAHAMAT ULLAH
RESIDENT OF BHUTNATH BAGAN, PS BHARALUMUKH, DIST KAMRUP M
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09.04.2024

- 1.** Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Ambia Begum*, who has been detained behind the bars since 16.03.2024 (for last 25 days) in connection with Bharalumukh P.S. Case No. 52/2024 under Sections 21(b)/29 of the NDPS Act,

1985.

3. The gist of accusation in this case is that on 16.03.2024 one Rinku Moni Borah had lodged an FIR before the Officer-in-charge of Bharalumukh Police Station, *inter alia*, alleging that on the basis of reliable information received through secret sources, a search was conducted at Boothnath Bagan near Railway line and one Sanuwar Ali was apprehended and suspected heroin weighing about 5.67 gram was recovered from his possession. It is also alleged in the FIR that during the interrogation, the apprehended accused Sanuwar Ali disclosed the name of the present petitioner being involved in drug peddling and trafficking of illegal drugs in and around Bharalumukh area.

4. Learned counsel for the petitioner has submitted that the petitioner has been arrested only on the basis of the statement of the co-accused and nothing was recovered from her possession. It is also submitted by the learned counsel for the petitioner that the quantity of contraband in this case is only 5.67 grams and the present petitioner has been detained behind the bars along with 18 month old baby and, therefore, the prayer for bail has been made.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary of Bharalumukh P.S. Case No. 52/2024, and has submitted that there is a racket of involved in the peddling of drugs and there is incriminating material against the present petitioner. It is also submitted that the investigation is going on, therefore, custodial detention of the present petitioner would be necessary.

6. I have considered the submissions made by the learned counsel for both the sides and have perused the material available on record including the case diary of Bharalumukh P.S. Case No. 52/2024.

7. On perusal of the materials available on record, it appears that the quantity of contraband seized in this case is 5.67 grams, i.e., only .67 grams more than the small quantity. It also appears that nothing was recovered from the possession of the present petitioner and she was only apprehended on the basis of the statement of co-accused which is not admissible in evidence against her in absence of any other materials on record. It also appears that the petitioner has been detained in the bars with an eighteen months old baby.

8. As on date apart from the statement of co-accused, no material is available against the present petitioner and, therefore, her further detention would not be justified.

9. In view of the above, the above named petitioner is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the learned Special Judge, Kamrup(M) with following conditions:-

i.That the petitioner shall cooperate in the trial and shall regularly appear before the trial court as and when required;

ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the trial court.

10. With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant