

GAHC010073372024



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

Case No. : Bail Appln./1030/2024

SAHIDUR RAHMAN
S/O HAMIDUL RAHMAN
R/O VILL- SUPTU KARONG AND USHOIPOKHI THARAOROK
P.S. LILONG, DIST. THOUBAL, MANIPUR.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. A. MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-04-2024

- 1.** Heard Ms. A. Medhi, learned counsel for the petitioner.
- 2.** The petitioner namely, Sahidur Rahman has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 13.02.2023 in

connection with NDPS Case No. 95/2023 arising out of Gorchuk P.S. Case No. 41/2023 registered u/s 21(c) of the NDPS Act, 1985.

3. It is submitted that the petitioner had preferred a bail application being Bail Application No. 3977/2023 and vide order dated 04.01.2024 the petitioner's prayer for bail was rejected. However, the learned trial Court and the prosecution has procrastinated the case and not a single witness has been examined so far after examination of 5 witnesses prior to 04.01.2024. It is submitted that the petitioner is innocent. The contraband was recovered from a secret chamber of his vehicle and the petitioner was the driver of the vehicle. The owner of the vehicle is responsible for construction of any secret chamber in his vehicle but surprisingly the owner of the vehicle was not arrested in connection with this case. Allegedly 16 kgs .088 grms of brown sugar was kept concealed inside the vehicle bearing Registration No. AS-01-GC-9536.

4. The learned Addl. PP Mr. K. Baishya has raised objection stating that the scanned copies of the trial Court record reveals that one more witness was examined and this witness was examined on 09.01.2024 i.e. after the bail petition was rejected in Bail Application No.3977 of 2023. It is also submitted that only 8 witnesses are enlisted and 6 witnesses have already been examined. The trial is at its fag end. Moreover, the learned trial Court has also called for a DTO report relating to the vehicle seized in connection with this case. At this juncture releasing the petitioner on bail will adversely affect the trial.

5. I have considered the submissions at the Bar with circumspection.

6. The FIR reveals that the contraband was kept concealed inside the vehicle cabin. The rigour of Section 37 of the Act is a constraint to bail. Moreover this case is at the fag end of the trial. This Court refrains from bringing the merits of

the case to the fore at this juncture. This case cannot be held to be a case where trial has been procrastinated by the prosecution or by the trial Court. There appears to be no justified ground to grant bail to the petitioner at this stage of trial.

7. Petition with prayer of bail is rejected at this stage.

8. However, the petitioner is at liberty to apply for bail if trial is procrastinated any further. The trial Court is directed to expedite the trial for speedy disposal of this case.

JUDGE

Comparing Assistant