

GAHC010081362024



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

Case No. : Bail Appln./1181/2024

RANI DEVI AND ANR.
W/O DILIP PASWAN
R/O MACHUWA ROAD,
NEAR GANDHI MAIDAN
P.S. PATNA
DIST. PATNA, BIHAR.

2: SANGITA DEVI
W/O SRI ASHOK RAI
R/O MACHUWA ROAD

NEAR GANDHI MAIDAN

P.S. PATNA
DIST. PATNA
BIHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S C DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

20.06.2024

1. Heard Ms. D. R. Bongshiary, submitting on behalf of Mr. S. C. Das, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor.

2. This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely 1. Rani Devi and 2. Sangita Devi, who are detained behind the bars since 22.08.2023 (for last nine months) in connection with special NDPS Case No. 69/2024 corresponding to Guwahati GRPS Case No. 150/2023 under section 20(b)(ii)(C) of the NDPS Act, 1985, which is pending in the Court of learned Additional Sessions Judge No. 5, Kamrup Metro, Assam.

3. The gist of accusation in this case is that on 23.08.2023, one Madhab Ekka, Sub-Inspector of Police, had lodged an FIR before the Officer-In-Charge of GRPS Guwahati, *inter alia*, alleging that on 22.08.2023 during joint checking, which was conducted by the police team in the train No. 15658 DN (BP Mail, which was standing at Kamakhya railway station at platform No. 4 for its onwards journey, the petitioners were found to carry luggage containing suspected ganja. On weighing the weight of the said ganja was found to be total 23.996 kgs of ganja.

4. After receipt of the said FIR, the GRPS Case No. 150/2023 was registered and investigation was initiated. Ultimately, on completion of the investigation, charge sheet was laid against both the above petitioners under section 20(b) (ii) (C) of the NDPS Act.

5. Learned counsel for the petitioners has submitted that the petitioners

are arrested merely on the basis of suspicion as the luggage from where the contraband was recovered in this case do not belong to the petitioners.

6. It is also submitted by the learned counsel for the petitioners that the petitioner No. 2, namely Sangita Devi is suffering from eye ailment and therefore, has prayed for allowing the petitioner to go on bail.

7. On the other hand, learned Additional Public Prosecutor has opposed the prayer for bail on the ground that the quantity of contraband seized in this case is of commercial quantity and therefore, the embargo of section 37 of the NDPS Act is applicable in this case.

8. He has also submitted that as regards the eye ailment of the petitioner No. 2 is concerned, she has been provided necessary medical treatment for the said ailment by the Jail Authority.

9. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record, including the scanned copy of the case record of NDPS Case No. 69/2024.

10. It appears from record that the quantity of ganja seized in this case is of commercial quantity and same was recovered from the luggages, which were in possession of the above-named petitioners while they were found inside the train in which the search operation was conducted. As there are *prima facie* materials against the present petitioners under section 20(b) (ii) (C) of the NDPS Act, 1985 and as the embargo of section 37 of the NDPS Act is applicable in this case, this Court is constrained to reject the prayer for bail of the above-named petitioners at this stage.

11. It is however observed that the petitioner No.2 Sangita Devi shall be provided with all necessary medical treatments, for her eye ailment while she is in custody.

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

JUDGE

Comparing Assistant