

GAHC010082772024



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

Case No. : Bail Appln./1221/2024

RIAZ UDDIN AND ANR.
S/O LATE MASUR ALI
R/O RANIRPAR
P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM
2: JAHIR HUSSAIN
S/O JAMAL MIA
R/O SUJARKANDI
P.S. KARIMGANJ
DIST. KARIMGANJ
ASSA
VERSUS
THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S DAS
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.07.2024

Heard Mr. S. Das, learned counsel for the petitioners and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

Scanned copy of the case record is received and perused.

Heard both sides.

This is an application under Section 439 Cr.P.C., filed by the petitioners, namely **(1) Riaz Uddin** and **(2) Jahir Hussain**, praying for regular bail, who were arrested on 08.02.2024 in connection with Badarpur P.S. Case No. 37/2024 [Corresponding to Special (NDPS) Case No. 25/2024] under Sections 21(b) and 29 of the NDPS Act, 1985.

It is submitted by Mr. Das, learned counsel for the petitioners that the petitioners are innocent and they have been falsely implicated in this case. Further, he submits that both the accused/ petitioners were arrested on 08.02.2024 and since then, they have been detaining in custody. More so, the quantity which were alleged to have been recovered from the possession of the petitioners are much lesser than the commercial quantity and only 26 grams of ground sugar have been recovered from the petitioners. He also submits that the case is still at the stage of production of accused and hence considering the length of detention, the prayer for bail may be considered. However, the petitioners are ready to contest the case and will appear before the trial court on each and every date fixed by the court.

On the other hand, Mr. Sarma, the learned Additional Public Prosecutor has submitted that the case is still at the stage of appearance as one of the accused was somehow managed to flee away from the place of occurrence and he is still absconding. The name of the said absconding accused person is Abdul Mukit and the charge could not be framed by the learned trial court due to his absence. He further submits that there are sufficient incriminating materials against the accused persons, who are stated to be the dealers of drugs and he therefore, raised objection for granting bail to the petitioners at this stage.

After having heard the submission of the learned counsel for both the parties, I have perused the scanned copy of the case records and it is seen that due to

absence of one accused, the case could not be proceeded and charge could not be framed in this case. It also reveals from the case record that all together 13 number are to be examined and the trial cannot be concluded with short period. More so, it is not a case of commercial quantity and hence rigour of Section 37 of NDPS Act is not applicable herein this case. Hence, considering the period of detention, I find it to be a fit case to grant the bail to the accused petitioners.

Accordingly, it is directed that the petitioners named above, be released on bail on furnishing a bond of Rs. 30,000/- (Rupees thirty thousand) each with 1 (one) suitable surety of like amount to the satisfaction of the learned Special Judge, Karimganj in connection with the aforementioned case.

The direction for bail is further subject to the conditions that the accused-petitioners:

- (1) shall not leave the territorial jurisdiction of the learned Special Judge, Karimganj, without prior written permission from him/ her;
- (2) shall not hamper in the investigation of the case and tamper with the evidence of the case; and
- (3) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

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

JUDGE

Comparing Assistant