

GAHC010086602024



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

Case No. : Bail Appln./1289/2024

RAFAT ALI AND ANR
S/O BABU KHAN
H/NO. 295, VILL- RADHNA, INAYATPUR, P.S. KITORE, DIST. MEERUT, UP-
250104

2: AASIF
S/O ANWAR
VILL- RADHNA INAYATPUR
P.S.KITORE
DIST.MEERUT
UP25010

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A S TAPADER, MR. A M ALAMAN, MR M AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12-11-2024

Heard Mr. A S Tapader, learned counsel for the petitioners and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State.

2. By this application filed under Section 439 CrPC, the petitioners, namely, **(i) Rafat Ali**, son of Babu Khan and **(ii) Aasif**, son of Anwar, both resident of village-Radhna, Inayatpur, P.S.-Kitore, District-Meerut, Uttar Pradesh are seeking bail in Special (NDPS) Case No. 96/2023 arising out of Bazarichera Police Station Case No. 160/2023 registered under Sections 22(c)/25/29 of the NDPS Act, 1985 corresponding to G.R. No. 1616/2023, in which they were arrested on 04.08.2023 and are in custody since then.
3. Perused the case records that was called for earlier by order dated 06.05.2024.
4. As per the FIR dated 04.08.2023, the case is that when the complainant, Sub-Inspector of Bazarichera Police Station and the staff of said police station were conducting Naka cheking duty in front of Churaibari Watch Post in the midnight at around 1 AM, one 12 wheeler Goods Carrier Truck bearing Registration No. MP-07-HB-7850 was detained by the police personnel at Churaibari naka checking point that was coming from Uttar Pradesh towards Tripura which was driven by the petitioner No. 1 with the co-driver, petitioner No. 2. When the said vehicle was searched, on removing the tarpaulin of the truck, police personnel found 3 numbers of cartons containing Triprolidine Hydrochloride and Codeine Phosphate Phensedyl Cough Syrup which were concealed with bags of rice. During such search, from 353 nos. of cartons 35300 nos. of bottles of Codeine Phosphate Phensedyl Cough Syrup were recovered.
5. Accordingly, the petitioners, i.e., the driver and co-driver of the said vehicle from which such NDPS items were recovered, were apprehended and Bazarichera Police Station Case No. 160/2023 was registered under Sections 22(c)/25/29 of the NDPS Act, 1985.
6. After following due procedure, such Triprolidine Hydrochloride and Codeine Phosphate Phensedyl Cough Syrup were seized in the case and accordingly, inventory of such NDPS items was made.
7. It is seen that the FSL report dated 11.10.2023 indicates positive test for Codeine Phosphate of 176.0 mg, 174.5 mg and 185.3 mg in the 3 sets that were sent to FSL for its report.
8. During the deliberation of the matter, it has been placed before the Court that Charge-Sheet has already been filed in said Bazarichera P.S. Case No. 160/2023 corresponding to G.R. No. 1616/2023 against the petitioners under Sections 22(c)/25/29 of the NDPS Act, 1985, vide Charge-Sheet No. 179 dated 31.12.2023.
9. Learned counsels for the parties have submitted that the next date of said Special (NDPS)

Case No. 96/2023 pending before the Court of the learned Special Judge (NDPS), Karimganj is fixed on 14.11.2024 for admission/denial.

10. Finding sufficient incriminating materials in the case records against the petitioners regarding their involvement in the alleged crime and as much more than commercial quantity of NDPS items were seized from the conscious possession of the petitioners, this Court is of the view that custodial detention of the petitioners since 04.08.2023 cannot be considered for their bail in said Special (NDPS) Case No. 96/2023 arising out of Bazarichera P.S. Case No. 160/2023.

11. Accordingly, this bail application of the petitioners, named above, in said Special (NDPS) Case No. 96/2023 arising out of Bazarichera P.S. Case No. 160/2023, stands rejected at this stage.

JUDGE

Comparing Assistant