

GAHC010089262024



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

Case No. : Bail Appln./1307/2024

JAHIDUL ISLAM
S/O LATE SIRAJUDDIN
R/O VILL- JOGIRPAM
P.O. AND P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR A ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09.05.2024

Heard Mr. T.K. Bhuyan, learned counsel for the accused and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused, namely, Jahidul Islam, who has been languishing in jail hazot in connection with

Barpeta P.S. Case No. 122/2024, under Sections 21(a)/22(c) of the NDPS Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by SI Jagriti Daimari of Barpeta P.S. on 09.03.2024. The essence of allegation made in the FIR dated 09.03.2024 is that acting on a tip off, the informant, along with other police staff conducted search in the house of Jahidul Islam, situated at Jogirpam and recovered 4.14 grams of brown colour powder suspected to be heroin without plastic packet, 51 Nos. packets of Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen capsules containing 8 Nos. of capsules in each packets weighing 223.72 grams without plastic packet and 14 Nos. of strips of Nitrazepam tablets containing 10 Nos. of tablets in each strips weighing 17.43 grams, and seized the same in presence of witnesses.

4. Mr. Bhuyan, the learned counsel for the accused submits that the accused was arrested on 09.03.2024 and since then, he has been languishing in jail hazot for last 61 days. Referring to the seizure list at page No. 15, of the petition, Mr. Bhuyan submits that the contraband substances, allegedly recovered from the possession of the accused are of intermediate quantity and as such, Section 22(c) of the NDPS Act is not attracted here in this case and since the contraband substances seized from the possession of the accused is of intermediate quantity, the mandatory period of detention here in this case is 60 days and no charge-sheet has been submitted till date and as such, he is entitled to get default bail here in this case and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Addl. Public Prosecutor submits that as per his instruction, no charge-sheet has been submitted till date. Mr.

Sarma, however, has not disputed the fact that the contraband substances recovered allegedly from the possession of the present accused are of intermediate quantity.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears from the seizure list at page No. 15 of the petition that the contraband substances allegedly recovered from the possession of the accused are of intermediate quantity and as such, Section 22(c) of the NDPS Act is not attracted. Further, it appears that the accused was arrested on 09.03.2024 and since then, he has been languishing in jail hazot for last 61 days and admittedly, no charge-sheet has been submitted here in this case till date and as such, the accused is entitled to default bail. Accordingly, this Court is inclined to allow the petition.

8. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Special Judge, NDPS, Barpeta, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant