

GAHC010092322024



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

Case No. : Bail Appln./1377/2024

JINA DEVI CHAKMA
D/O NETAN BAR CHAKMA
R/O PANDAWNGLUI,
P.S. BASEIKAI, DIST. LAWNGETELAI, MIZORAM.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S R RABHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15.05.2024

Heard Mr. S.R. Rabha, learned counsel for the accused and Mr. B.B. Gogoi, learned Addl. Public Prosecutor for the State respondent.

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

with Panbazar P.S. Case No. 311/2023, under Section 20(b)(ii)(B) of the NDPS Act since 29.11.2023, 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 WSI Kalpana Konwar of Panbazar P.S. on 28.11.2023. The essence of allegation made in the FIR dated 28.11.2023, is that on that day, the accused came to the post office for sending one parcel containing 2 kg of suspected cannabis. Then, the matter was reported to the traffic police. Thereafter, the police personnel of Panbazar P.S. arrived there and seized the aforementioned cannabis by preparing seizure list and also arrested the accused.

4. Mr. Rabha, the learned counsel for the accused submits that the accused is a student and pursuing B.Com at R.J. Baruah College, Guwahati, and that she has been languishing in jail hazot since 29.11.2023, and investigation of the case has already been completed and charge-sheet has been submitted before the learned trial Court, and that the accused on an earlier occasion, has approached this Court by filing Bail Appln. No. 1011/2024 and vide order dated 08.04.2024, the same was disposed of by directing the accused to approach the learned trial Court as charge-sheet has been submitted in the meantime, and thereafter, the accused has approached the learned trial Court. But, the learned trial Court, vide order dated 10.04.2024 in Bail Application No. 115/2024, has dismissed her petition. Mr. Rabha further submits that the accused will appear before the learned trial Court regularly, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B.B. Gogoi, learned Addl. Public Prosecutor submits that admittedly, the quantity of contraband substance recovered from the possession of the accused was of intermediate quantity and that charge-sheet

has already been submitted before the learned Court below.

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 that the accused was arrested on 29.11.2023 and since then, she has been languishing in jail hazot. Further, it appears that the quantity of contraband substance, allegedly recovered from the possession of the accused, was 2 kg only, which is of intermediate quantity. It also appears that the Investigating Officer has already completed investigation and submitted charge-sheet, being Charge-sheet No. 23/2024, dated 31.01.2024, under Section 20(b)(ii)(B) of the NDPS Act.

8. Since the quantity of contraband substance allegedly recovered from the possession of the accused is of intermediate quantity, the bar of Section 37 of the NDPS Act will not be applicable here in this case.

9. Having considered the period of detention also considering the quantity of contraband substance, allegedly recovered from the possession of the accused, and also in view of the submission of learned Advocates of both sides, this Court is inclined to allow the petition.

10. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Additional Sessions Judge No. 2, Kamrup(M), Guwahati, the accused be enlarged on bail. The above privilege is, however, subject to the following conditions:

(i) The accused shall appear before the learned Court below on each and every date;

(ii) The accused 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; and

(iii) The accused shall not leave the jurisdiction of the learned Additional Sessions Judge No. 2, Kamrup(M), Guwahati without prior permission.

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

JUDGE

Comparing Assistant