

GAHC010094572024



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

Case No. : I.A.(Crl.)/441/2024

ZAMZAM HUSSAIN
S/O LATE MOINUL ISLAM VILL- BAGARSANGAM (VITHARGOOL) P.S.
KARIMGANJ DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM,
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : IMRAN UDDIN CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 28-05-2024

Heard Mr. I.U. Choudhury learned counsel for the applicant and
Mr. M.P. Goswami, learned Addl. PP.

This is an application for modification of order dated 11.03.2024
passed by this Court in B.A. No. 342/2024 (disposed of).

By the aforesaid order, the applicant was granted bail in

connection with Special NDPS Case No. 114/2021 arising out of Karimganj P.S. Case No. 1171/2021 registered under Sections 22(C)/29 of NDPS Act pending in the Court of learned Special Judge, Karimganj.

While granting the bail, a condition was imposed to the effect that "the petitioner namely, Zamzam Hussain, be released on bail on executing a bail bond of Rs. 1,00,000/- (one lakh) with two suitable solvent sureties of like amount to the satisfaction of the learned Special Judge, Karimganj, Assam."

It is the contention of the learned counsel for the petitioner that the petitioner belongs to very poor strata of society and he could not manage the two sureties and therefore, he is still languishing in jail. If the condition of two sureties is relaxed, he will be able to come out of the jail.

Considered the submissions made by the learned counsel for the applicant.

From the record it is seen that the applicant is a local resident of Karimganj under the jurisdiction of the trial court. The Hon'ble Apex Court in SMWP (Criminal) No.4/2021 dated 31.01.2023 has made certain observations as regards failure to furnish bail bond and releasing the accused person. The Hon'ble Apex Court had observed that if the bail bonds are not furnished within one month from the date of grant of bail, the concerned court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.

After considering the facts of the present case, more particularly, the fact that the applicant is a local resident and he is a poor person and has not been able to produce two suitable solvent sureties, though it is stated that he can provide one solvent surety in terms of this court's order dated 21.05.2024, this court is of the view that relaxation of condition of the two suitable sureties will not prejudice the prosecution. One surety will

be sufficient to ascertain the appearance of the applicant before the trial court, inasmuch as the applicant has given an undertaking that he will remain present before the trial court.

Considering the above, the present application stands allowed and the condition of the two solvent sureties is modified and in place of the aforesaid condition, the following condition be read into order dated 11.03.2024.

“The petitioner namely, Zamzam Hussain be released on bail on executing a bail bond of Rs.1,00,000 (one lakh) with one suitable surety of the like amount to the satisfaction of the learned Special Judge, Karimganj, Assam.”

This disposes the interlocutory application.

It is needless to say that this order shall not be treated as a precedent inasmuch as, such order has been passed taking note of the given facts of the present case.

JUDGE

Comparing Assistant