

GAHC010111802024



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

Case No. : Bail Appln./1612/2024

GUNARAM DAIMARI @ GUNA DAIMARI @ GUNARAM DAIMARY
S/O LT. PUARAM DAIMARI
R/O DAIFAM KHUTI, PIN-788720,
P.S. ROUTA
DIST. UDALGURI (BTAD), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 15.07.2024

Heard Ms. S.G. Baruah, learned counsel for the accused-petitioner as well as Mr. R.J. Baruah, learned Additional Public Prosecutor for the State.

2. By this petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Gunaram Daimari @ Guna Daimari @ Gunaram Daimary**, has prayed for granting bail in connection with **Special (N) Case No. 07/2024**, registered under Section **20(C)/29 of NDPS Act**, pending in the court of learned Special Judge, Darrang, Mangaldai.

3. It has been submitted by the learned counsel for the accused/petitioner that the accused-petitioner is noway connected with the alleged offence. It is also submitted that on 08.09.2023, the petitioner was arrested in connection with another case i.e. Mazbat P.S. Case No. 70/2023 under Section 20(b)(ii)(c)/29 of NDPS Act for which he was shown arrested in connection with the instant case. It is further submitted that the petitioner was shown arrested after ten months of recovery of ganja from the said vehicle.

4. It is also submitted by the learned counsel for the petitioner that the alleged vehicle belongs to the Office of the Director of Elementary Education, Guwahati, Assam and thereafter, on acution, it was purchased by one Sri Sanjib Dey and then, one Ratul Baruah purchased the said vehicle. The petitioner was shown arrested only on the basis of the statement of Ratul Baruah. It is also submitted that out of the four accused persons in this case, three were already granted bail by this Court.

5. It is also submitted that as the petitioner has no knowledge about the alleged contraband items and also considering the length of detention, the petitioner may be enlarged on bail.

6. On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State submits that the petitioner is the owner of the vehicle from which commercial quantity of ganja was recovered. There is no explanation from the side of the accused how such large quantity of ganja was found in his vehicle. It is further submitted that the charge-sheet was submitted on 27.01.2024. The case is at the initial stage of trial. Therefore, considering the nature of offence, bail prayer of the petitioner may not be considered at this stage.

7. I have considered the submissions made by the learned counsel for the parties. I have also perused the trial court record.

8. On perusal of the record, it reveals that the petitioner purchased the said vehicle from one Ratul Baruah but he did not transfer the registration certificate. On 23.02.2023, the petitioner booked a trip with his known persons and on being searched by the police, the commercial quantity of ganja was recovered from his vehicle.

9. The NDPS Act is a special Act with an inbuilt mechanism in the form of Section 37 relating to bail. The commercial quantity of ganja was kept secretly in the said vehicle for the purpose of carrying ganja/contraband. It is true that no any witness was examined in the case, however, it also appears that commercial quantity of contraband was kept concealed in the vehicle. The petitioner is the owner of the said vehicle.

10. The Hon'ble Supreme Court in the case of ***Chandrakeshwar Prasad Vs. State of Bihar***, reported in ***(2016) 9 SCC 443***, has laid

down in clear terms that interest of the society is a relevant factor to be taken into account while considering the prayer for bail. For ready reference, the relevant paragraphs of the said case are extracted herein below:

"10. This Court in Rajesh Ranjan Yadav @ Pappu Yadav v. CBI through its Director (2007) 1 SCC 70 balanced the fundamental right to individual liberty with the interest of the society in the following terms in paragraph 16 thereof:

"We are of the opinion that while it is true that Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time, the court has also to take into consideration other facts and circumstances, such as the interest of the society."

11. On consideration of the matter in its entirety, this Court is of the view that this is not a fit case for grant of bail to the accused/petitioner, at this stage. Therefore, prayer for bail is **rejected**.

12. The bail application stands disposed of.

JUDGE

Comparing Assistant