

GAHC010112062024



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

Case No. : Bail Appln./1630/2024

MD. SAMSUL HOQUE @ BABUL
S/O SAKAT ALI, VILL- LAHARIJAN DUDU COLONEY, P.S.-KHATKAHTI,
DIST-KARBI ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21.06.2024

Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal

Procedure, 1973 for grant of bail to the accused/ petitioner, who has been arrested in connection with Khatkhathi P.S. Case No. 67/2024, under Section 21(b)/29 NDPS Act.

Case Diary has been received. Perused the same. Heard both sides.

On the last occasion, the medical report was received from the jail authority. However, another medical report had to be called for from the jail authority as from the earlier report, it was not specific as to what kind of disease the accused/petitioner was suffering from and what kind of treatment was provided to the petitioner or as to whether he is responding to the treatment or not. Today, the learned Additional Public Prosecutor has produced another medical report, wherein it is stated that presently the accused/petitioner, who is HIV patient, is suffering from chest pain, breathing problem and swelling gout and for which, he had to undergo some kind of test in the laboratory and apart from that, x-ray was also done on his foot and ankle and he is under the close observation of the jail authority and treatment is providing to him as advised by the doctor of Diphu Medical College & Hospital.

In this context, Mr. S. Munir, learned counsel for the petitioner, has submitted that the health condition of the accused is further deteriorating and he is not even in a position to walk or stand and he is also HIV positive. Further he submitted that the residence of the accused/petitioner is just near to the police station where his scrap dump is located. Further he submitted that the accused/petitioner is behind the bar since last 15.05.2024 and thus, the I.O. got sufficient time for his custodial interrogation. More so, he submitted that no

contraband has been recovered from his conscious possession as he was not aware as to whether who kept the said contraband in his dump. However, he is still ready and willing to co-operate with the I.O. in the further investigation of this case and he being a resident of nearby the police station, the question of absconding does not arise.

In this regard, Mr. R. J. Baruah, learned Additional Public Prosecutor, has submitted there are materials against the present accused/petitioner and the contraband was recovered from the dump of the present petitioner and thus, it can be considered that the contraband was recovered from the conscious possession of the accused/petitioner. However, he submitted that considering the medical ground of the accused/petitioner, he may be enlarged on bail with some strict condition.

Considering the submissions made by the learned counsels for both sides, without going by the merit of the case and only considering the medical ground of the accused/petitioner, I am inclined to grant bail to the accused/petitioner.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, Diphu, Karibi Anglong, the accused/petitioner, namely, Md. Samsul Haque @ Babul, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;

- (ii) that the petitioner 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) that the petitioner shall not leave the jurisdiction of the learned Special Judge, Diphu, Karbi Anglong, without prior permission.

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

JUDGE

Comparing Assistant