

GAHC010113062024



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

Case No. : Bail Appln./1659/2024

SARIP ALI
S/O NOWSAD ALI, R/O VILL- DAWKIJHAR, P.S.-BONGAIGAON, DIST-
BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26.06.2024

Heard Mr. A. K. Azad, 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, praying for grant of bail to the accused/petitioner arrested on 11.05.2024 in connection with Bongaigaon P.S. Case No.168/2024, under Section 21(b)/29 of the NDPS Act, 1985.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. A. K. Azad, that the accused/petitioner is behind the bar for last 46 days and thus, the I.O. has got ample opportunity to interrogate the accused/petitioner keeping him in custody. It is submitted that as per the FIR and the seizure list, around 37.56 gm of heroin was recovered from the petitioner's possession with the container, but those suspected contraband was in his possession only for his self consumption and thus, he is no way involved in the alleged offence. More so, the petitioner has no criminal antecedents nor was earlier arrested in connection with any cases of this nature. He further submitted that the custodial interrogation of the accused/petitioner may not be necessary for the purpose of investigation, however, he is ready and willing to co-operate the Investigating Officer as and when his co-operation will be needed, if he is allowed to remain on bail.

In this context, the learned Additional Public Prosecutor, Mr. R. J. Baruah, has submitted that from the materials available in the Case Diary, no independent witness has been examined by the I.O. till date and from the note of the I.O., it is seen that the FSL Report is yet to be collected. He further submitted that there is no note from the I.O. regarding the submission of the Charge-Sheet within the statutory period.

Considering the submissions of learned counsel for both sides, as well as

considering the nature of the case and without going into the merit of the case and also considering the length of detention already undergone by the accused/petitioner, I find that further custodial detention may not be necessary and hence, I find it a fit case to allow the accused/petitioner to go on bail.

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, Bongaigaon, the accused/petitioner, namely, Sarip Ali 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, Bongaigaon, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant