

GAHC010116982024



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

Case No. : Bail Appln./1693/2024

HAMIDA BEGUM
W/O ABUL KALAM AZAD
VILL- CHATLA
P.O. CHATLA
P.S. SARTHEBARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MD. S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 19.07.2024

Heard Md. S. Islam, 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, **Hamida Begum** has prayed for granting bail in connection with **Sarthebari P.S. Case No. 63/2024**, registered under Section **22(C)/29 of NDPS Act**.

3 . The case of the petitioner is that on 13.05.2024, the informant lodged an FIR before the Sarthebari Police Station stating inter alia that on receipt of an information regarding illicit trafficking of suspected Tramadol Hydrochloride Capsules was going on at the house of the petitioner, the police personnel went to the spot and during search, two numbers of cartoons having 228 packets of suspected Tramadol Hydrochloride, Dicyclomine Hydrochloride and Acetaminophen capsules were recovered. Accordingly, a case was registered vide Sarthebari P.S. Case No. 63/2024 under Section 22(C)/29 of NDPS Act.

4. It is submitted by the learned counsel for the accused/petitioner that the accused-petitioner is a married woman having minor school going children and she is no way connected with the alleged offence. Her husband is running the business who was arrested in connection with this case. It is also submitted that the petitioner has been detained in custody since her arrest on 14.05.2024. Considering the length of detention and background of the case, the petitioner may be enlarged on bail.

5. On the other hand, Mr. Baruah, learned Additional Public Prosecutor for the State produced the case diary and submits that 32,832 capsules suspected psychotropic substance were recovered from the house of the petitioner. It is also submitted that FSL has not been received. Considering

the gravity of the offence, bail may not be considered at this stage.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

7. It appears that large quantity of psychotropic substance was recovered from the house of the petitioner and the husband of the petitioner was also arrested in this case. The petitioner is one of the inmates of the house and she has to explain regarding the seized items.

8. The NDPS Act is a special Act with an inbuilt mechanism in the form of Section 37 relating to bail. The commercial quantity of psychotropic substance was kept secretly in the house of the petitioner. Investigation is still going on. Charge-sheet has not yet been submitted.

9. 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."

10. 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**.

11. The bail application stands disposed of.

12. Send back the case diary.

JUDGE

Comparing Assistant