

GAHC010118352024



2024:GAU-AS:12429

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

Case No. : Bail Appln./1722/2024

MOKSED MIAH @ MOKSEDUL ALOM @ FAKIR
S/O LATE ABDUL SHOHID @ MAJAL SK.
R/O VILL- KALODEWANIR GAON,
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR Z HUSSAIN, MR A K DAS, MR. RASHIDUL ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

09/12/2024

Heard Mr. R Islam, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. The petitioner namely, **Moksed Miah @ Moksedul Alom @ Fakir**, son of Late Abdul Shohid @ Majal Sk, resident of Village-Kalodewanir Gaon, P.S. Mankachar, District-South Salmara Mankachar, is a charge-sheeted accused in Special (NDPS) Case No. 90/2024 arising out of Mankachar P.S. Case No. 464/2023 under Section 22(C) of NDPS Act, 1985 corresponding to G.R. No. 1116/2023. By this

application under Section 439 Cr.P.C., the petitioner is seeking bail in said Special (NDPS) Case No. 90/2024, wherein he was arrested on 03.06.2024 and is in custody since then.

3. Considering his detention from 03.06.2024 and since charge has already been framed in the case, the petitioner has prayed for his bail in said Special (NDPS) Case No. 90/2024 pending before the Court of learned Special Judge (NDPS), South Salmara-Mankachar.

4. Perused the up-to-date case records that was called for by orders dated 14.06.2024 and 28.08.2024.

5. As per the FIR of the case, on the basis of specific information that the petitioner had kept concealed huge quantity of NDPS items with him, initially, Manakachar G.D. Entry was made and with due authorization, police personnel from Mankachar Police Station cordoned the house of the petitioner at Village-Kalodewanirgaon. After making search of the house of the petitioner with due authorization in presence of independent witnesses, 64 nos. of Tripolidine Hydrochloride & Codeine Phosphate Cough Syrup, PHENSEDYL, Cough Syrup; each bottle weighing of 100 ml.; in total 6400 ml. were recovered from the house of the petitioner that was kept concealed beneath his bed. After making necessary seizure following the due procedure in presence of the independent witnesses and after making due inventory, sample of such seized suspected NDPS items were forwarded to the FSL for its examination and necessary report. As per the FSL report, each of such bottles is found to be containing 182.6 ml. of Codeine Phosphate.

6. From the case record, it is seen that in said Special (NDPS) Case No. 90/2024 arising out of Mankachar P.S. Case No. 464/2023, the learned Special Judge (NDPS), South Salmara Mankachar on 21.08.2024 framed charge under Section 22(C) against the petitioner.

7. From the charge-sheet of the case, it is seen that there are altogether 8 prosecution witnesses and from them evidences of 4 nos. of prosecution witnesses have already been recorded by the learned Special Judge (NDPS), South Salmara Mankachar and they were thoroughly cross-examined by the defence.

8. It is seen that the trial of said Special (NDPS) Case No. 90/2024 is progressing before the Court of learned Special Judge, South Salmara Mankachar.

9. Considering the entire aspects of the matter, this Court is of the view that the detention of the petitioner in custody since 03.06.2024 cannot be considered for his bail in said Special (NDPS) Case

No. 90/2024 under Section 22(C) of NDPS Act, 1985 arising out of Mankachar P.S. Case No. 464/2023.

10. Accordingly, this bail application of the petitioner, **Moksed Miah @ Moksedul Alom @ Fakir**, in said Special (NDPS) Case No. 90/2024 under Section 22(C) of the NDPS Act, 1985 arising out of Mankachar P.S. Case No. 464/2023, presently pending before the Court of learned Special Judge (NDPS), South Salmara Mankachar, stands rejected.

JUDGE

Comparing Assistant