

GAHC010125212024



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

Case No. : Bail Appln./1819/2024

NUR MAHAMMAD @ NUR MOHAMMAD AND ANR.
S/O LT. RAFIQ ALI
VILL- UDMARI, P.S. KALGACHIA
DIST. BARPETA, ASSAM

2: BABIDUL HOQUE
S/OMAMAT HAFIJUDDIN
VILL- UDMARI
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PRESENT ADDRESS-
R/O HATIGAON
P.S. HATIGAON
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 26-06-2024

- 1.** Heard Mr. S. Munir, learned counsel for the petitioners. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State.
- 2.** This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, *1. Nur Mahammad @ Nur Mohammad and 2. Babidul Hoque*, who are detained behind the bars since 01.05.2024 (for last 57 days) in connection with Hatigaon P.S. Case No. 84/2024 under Section 21(b)/29 of the NDPS Act, 1985.
- 3.** The gist of accusation in this case is that on 30.04.2024, one Bilal Uddin Barbhuiya had lodged an FIR before the Officer-in-Charge of Hatigaon Police Station, *inter alia*, alleging that on receipt of an information through secret sources that some people are selling illegal drugs in Dakhingaon area, a search team was constituted and it went to Dakhingaon area and on reaching at Saukuchi road under Hatigaon Police Station one Bajaj Pulsar bearing Registration No. AS-15-U-9994 was intercepted wherein the present petitioner was found. During search of the aforesaid bike, one maroon colour soap box containing suspected heroin was found from their possession and the weight of the suspected heroin contained in the said box was found 12.5 grams.
- 4.** The learned counsel for the petitioners has submitted that the quantity of suspected heroin seized from the possession of present petitioners is alleged to be 12.5 grams only though during preparation of inventory before the Magistrate same was found to be 13 grams and same is less than commercial

quantity.

5. Learned counsel for the petitioners has also submitted that the petitioners have detained behind the bars for last 57 days and the maximum statutory period for which the petitioners may be detained for an offence involving intermediate quantity of heroin is 60 days, hence, considering the period of detention already undergone, the learned counsel for the petitioners has prayed for allowing the petitioners to go on bail.

6. On the other hand, learned Additional Public Prosecutor submits that on direction by this Court, she has spoken to the Investigating Officer of Hatigaon P.S. Case No. 84/2024 who has informed her that the investigation has almost completed and same is pending only receipt of the FSL.

7. Learned Additional Public Prosecutor has also submitted that as the statutory period of detention is not yet over, the petitioner may not be allowed to go on bail.

8. I have considered the submissions made by the learned counsel for the petitioner as well as learned Additional Public Prosecutor.

9. It appears from the submissions made at bar that the investigation of Hatigaon P.S. Case No. 84/2024 has already been completed and same is pending for receipt of FSL report only. It also appears that the petitioners are also detained behind the bars for last 57 days, hence, considering the progress of the as well as period of detention already undergone by the above name petitioners, their custodial detention does not appear to be necessary for completion of the aforesaid case.

10. In view of the above, the above named petitioners are hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) each with one surety of like amount subject to the satisfaction of the learned Special Judge, Kamrup(M).

i. That the petitioner shall cooperate in the investigation and shall appear before the Investigating Officer;

ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

11. With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant