

GAHC010127202024



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

Case No. : Bail Appln./1863/2024

MOKSED ALI @ MOKSET ALI
S/O SOBIYAN ALI @ SABIAL ALI
R/O VILL- DAWKIJHAR PT.I
P.S. BONGAIGAON
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26.06.2024

Heard Mr. M. I. Hussain, 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, who was arrested on 30.05.2024 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. M. I. Hussain, that the accused/petitioner is no way involved in the alleged offence and he is arrested in connection of this case only on the basis of the statement of the co-accused, but nothing has been recovered from his possession even after his house was searched. He never dealt with such kind of business and he was arrested only on the suspicion by the Investigating Agency. More so, he is behind the bar for last 27 days and thus, the I.O. has got ample opportunity to interrogate the accused/ petitioner keeping him in custody. However, he is ready and willing to co-operate the Investigating Officer in further investigation of this case if he is granted with privilege of bail.

In this context, the learned Additional Public Prosecutor, Mr. R. J. Baruah, has submitted that from the materials in the Case Diary, it is seen that nothing has been seized from the possession of the accused/petitioner and the I.O. also did not examined any independent witnesses to know his involvement in the alleged offence and except the statement of the co-accused, there is no other material in the Case Diary showing his involvement in the alleged offence. More so, it is seen that the FSL report is yet to be collected, which is already been

sent for examination before the FSL. On enquiry, he further submitted that there is no note from the I.O. regarding the submission of the Charge-Sheet within the statutory period of time.

Considering the submissions of learned counsel for both sides, without going by the merit of the case, and only considering the length of detention already undergone by the accused/petitioner, I find that further custodial detention of the present accused/petitioner may not be necessary here in the instant case 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, Moksed Ali @ Mokset 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