

GAHC010128852024



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

Case No. : Bail Appln./1903/2024

MHAO. T. MURRY
S/O- SRI THUNGCHAMO MURRY, R/O- H/NO. 53, 4TH MILE, DIPHUPAR A,
DIMAPUR, P.S. AND DIST. DIMAPUR, NAGALAND, PIN- 797115 AND
PRESENT ADDRESS- VETERINARY COLONY, BURMA CAMP, DIMAPUR, P.S.
EAST POLICE STATION, DIST. DIMAPUR, NAGALAND-797112.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. N K MURRY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 28.06.2024

Heard Mr. N. K. Murry, learned counsel for the petitioner. Also heard Ms. S. Jahan, 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 has been arrested in connection with Khatkhathi P.S. GDE No. 11, dated 11.05.2024, subsequently registered as Khatkhathi P.S. Case No. 64/2024, under Sections 21(b) of NDPS Act, dated 11.05.2024 (G.R. Case No. 118/2024).

It is submitted by Mr. Murry, learned counsel for the petitioner, that the accused/petitioner is innocent and nothing has been seized from his possession. However, it is a fact that on the day of incident, due to sudden illness of his wife, he was in rush and driving his vehicle in a high speed and when the police personnel asked him to stop the vehicle, there was some altercation took place with the police personnel and for that reason, he was arrested by the police. Further he submitted that in regards to the timing, there are very contradictory statements made by the police in the F.I.R. as well as in forwarding report. The accused/petitioner is behind the bar for last 48 days and thus, the I.O. got sufficient time for his custodial interrogation. More so, after his arrest, he was forwarded for judicial remand and the police did not ask for his custodial interrogation or further investigation. Further he submitted that the accused/petitioner, being a government servant, there is no chance of absconding, rather he will extend his full co-operation in the investigation of the case.

In this context, Ms. S. Jahan, learned Additional Public Prosecutor, has submitted that the seized contraband was allegedly recovered from the conscious possession of the accused/petitioner, i.e. from the bag pack of the present petitioner. However, she submitted that the accused/petitioner is behind

the bar for a considerable period. Further, on enquiry from the I.O., Ms. Jahan submitted that the Charge-Sheet could not be filed by the I.O. as the FSL report is yet to be received by the I.O. and there is no probability of filing the Charge-Sheet within the statutory period.

Considering the submissions made by the learned counsels for both sides, without going by the merit of the case and only considering the length of detention, I am of the view that the I.O. has got ample opportunity to interrogate the accused/ petitioner keeping him in custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with 2 (two) sureties of like amount, one surety has to be a government servant, to the satisfaction of the learned Special Judge, NDPS, Karbi Anglong, Diphu, the accused/petitioner, namely, Shri Mhao T. Murry, 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, NDPS, Karbi Anglong, Diphu, without prior permission.

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

JUDGE

Comparing Assistant