

GAHC010138302024



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

Case No. : Bail Appln./2015/2024

JUYEL DAS @ JEWEL DAS
S/O LATE NONI GOPAL, R/O WARD NO. 29, ADARSHA COLONY, JOGENDRA
NAGAR, AGARTALA, P.S.-EAST AGARTALA, DIST-WEST TRIPURA,
TRIPURA, PIN-799004

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NCB

Advocate for the Petitioner : MR. U K BARMAN, MS B KOUSHIK, MR. R KONWAR, MR D
PEGU, MR. M MALAKAR, MR H ALI

Advocate for the Respondent : SC, NCB,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 04.10.2024

Heard Mr. H. Ali, learned counsel for the petitioner. Also heard Ms. M. Deka, learned counsel appears on behalf of Mr. S.C. Keyal, learned Standing counsel, NCB.

2. By this bail application filed under section 483 of the Bharatiya Nagarik Suraskha Sanhita, 2023, the accused petitioner namely, **Juyel Das @ Jewel Das**, has prayed for bail in connection with **NDPS Case No. 56/2019** under Section 20(b)(ii)(C)/29 of NDPS Act, pending in the court of learned Additional Sessions Judge No. 3 (FTC No.3), Kamrup(M), Guwahati.

3. The brief fact of the case is that on 01.02.2019, on receipt of an information regarding transporting of Narcotic substances, a search operation was conducted in the Guwahati railway station. During search, 24.50 kg suspected ganja was recovered and arrested the petitioner along with one co-accused person. Accordingly, the instant case was registered.

4. The learned counsel for the petitioner submits that the petitioner has been detained in custody for more than five years since his arrest on 01.02.2019. It is further submitted that the mandatory provisions under Section 52A of the NDPS Act have not been complied with in this case. It is also submitted that in the present case, two bags were seized from two individuals, one containing 12.30 kg and the other 12.20 kg of ganja. However, the offense report does not indicate that both accused conspired together to bring the alleged seized ganja.

5. The learned counsel further submitted that in the case of Rabi Prakash vs. The State of Odisha, reported in 2023 Livelaw (SC) 553, it was held that "the prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of NDPS Act." In view of the acquisition spelt out against the petitioner as well as considering the period of detention, bail

may be granted to the petitioner.

In support of his submission, the learned counsel for the petitioner has also placed reliance on some other case laws-

(i) Amar Singh Ramjibhai Barot vs. State of Gujarat, reported in 2005 STPL 15037 SC.

(ii) Simarnjit Singh vs. State of Punjab, reported in 2023 STPL 9353 SC.

(iii) Paramjit Singh vs. Union of India in BA No. 1296/2024.

6. On the other hand, Ms. Deka, learned counsel appears on behalf of Mr. S.C. Keyal, learned Standing counsel, NCB, submits that commercial quantity of ganja was recovered from the possession of the petitioner. Evidence of the witnesses is closed and the case is fixed for recording of the statement of the accused persons. As the commercial quantity of ganja was recovered from the possession of the petitioner, Section 37 of NDPS Act is attracted here in this case. Considering the fact as well as the present status of the case, bail may not be granted to the petitioner at this stage of trial.

7. I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of trial court.

8. Having heard the learned counsel for the parties, admittedly, the accused/petitioner has been in judicial custody for last five years. However, all the witnesses have been examined, and the case is now fixed for recording the statement of the accused persons. Though there is delay in proceeding of the case, however, considering the far end of trial, this Court is not inclined to

grant bail to the petitioner. However, trial court is directed to complete the trial within one month.

9. In view of the above, the bail application stands disposed of.

JUDGE

Comparing Assistant