

GAHC010149342024



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

Case No. : AB/1969/2024

MAHIBUL ISLAM
S/O JAHIDUL ISLAM
R/O VILL- JOGIRPAM
P.O. AND P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR A ALI, MS. M KHATUN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 16.08.2024

Heard Mr. A. Ali, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Barpeta P.S. Case No. 122/2024, under Sections 21(a)/22(c) of the NDPS Act, this application under Section 482

of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been preferred by the applicant, namely, Mahibul Islam for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by SI Jagriti Daimari of Barpeta P.S. on 09.03.2024. The essence of allegation made in the FIR dated 09.03.2024, is that acting on a tip off, the informant, along with other police staff conducted search in the house of Jahidul Islam, situated at Jogirpam and recovered 4.14 grams of brown colour powder suspected to be heroin without plastic packet, 51 Nos. packets of Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen capsules containing 8 Nos. of capsules in each packets weighing 223.72 grams without plastic packet and 14 Nos. of strips of Nitrazepam tablets containing 10 Nos. of tablets in each strips weighing 17.43 grams, and seized the same in presence of witnesses.

4. Mr. Ali, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR and that he is the son of the main accused, namely, Jahidul Islam, who has already been granted bail by this Court, vide order dated 09.05.2024, in Bail Appln. No. 1307/2024, and that investigation of the case has already been completed and charge-sheet has been submitted before the learned trial Court, and that the applicant is ready to face trial and will appear before the learned trial Court, and that the contraband substance allegedly recovered from the main accused is of intermediate quantity and as such, Section 22(c) of the NDPS Act as well as the embargo under Section 37 of the NDPS Act is not attracted here in this case, and therefore, it is contended to allow the application.

5. On the other hand, Mr. P.S. Lahkar, learned Addl. Public Prosecutor has opposed the application on the ground that the I.O. has collected sufficient

incriminating materials against the applicant and that he has been named in the charge-sheet.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the scanned copy of the record received from the learned trial Court.

7. It appears that one of the co-accused, namely, Jahidul Islam has already been granted bail by this Court, vide order dated 09.05.2024, in Bail Appln. No. 1307/2024. It also appears from paragraph No. 7 of the aforesaid order that the quantity of contraband substance allegedly recovered from the possession of the named accused is of intermediate quantity and as such, Section 22(c) of the NDPS Act is not attracted.

8. In view of the above, the applicant is not required to satisfy the requirement of Section 37 of the NDPS Act. Further, it appears that investigation is completed and charge-sheet has also been submitted and now the case is pending before the learned trial Court. And it is categorically submitted by Mr. Ali, learned counsel for the applicant that the applicant will appear before the learned trial Court and he is ready to face trial.

9. Having considered the facts and circumstances on the record and also considering the nature and gravity of the offence, this Court is inclined to grant interim protection to the applicant till his appearance before the learned trial Court.

10. Accordingly, it is provided that in the event of arrest of the applicant in connection with Barpeta P.S. Case No. 122/2024, under Sections 21(a)/22(c) of the NDPS Act, he shall be released on interim pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the

arresting authority. The above privilege is, however, subject to the following conditions:

(i) The applicant shall appear before the learned trial Court on or before 02.09.2024 and apply for regular bail and in the event of filing such an application, the learned trial Court shall consider the same in accordance with law;

(ii) The applicant 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) The applicant shall not leave the jurisdiction of the learned C.J.M., Barpeta without prior permission.

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

JUDGE

Comparing Assistant