

GAHC010151302024



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

Case No. : Bail Appln./2208/2024

ANOWAR ALI SK @ MITHUN
S/O LT. MOKSHED ALI SK, R/O VILL- DALSINGERALGA PART-II, P.S.-
GAURIPUR, DIST- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR D TALUKDAR, MR M RANA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 16.09.2024

Heard Mr. D. Talukdar, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This an application under Section 483 of the BNSS, 2023 praying for grant

of bail to the accused/petitioner, who has been arrested in connection with Gauripur P.S. Case No. 111/2024, under Section 21(b)/22(c)/29 of NDPS Act.

It is submitted by Mr. Talukdar, learned counsel for the petitioner, that the present accused/petitioner is innocent and he is no way connected in the alleged offence. More so, the only allegation brought against the petitioner is that 22 (twenty two) numbers of ESCUF cough syrup were recovered from his possession, though there is no specific mention in regards to quantity of codaine phosphate in the said ESCUF cough syrups. Mr. Talukdar also relied on an order of this Court passed in Bail Appln. No. 2215/2021, dated 06.10.2021, wherein also, it is observed that containing 100 ml of cough syrup is not sufficient to know about the quantity of codaine phosphate in the bottle of the cough syrup and from the FSL report, it is not specific as to the quantity of the codaine phosphate in the ESCUF cough syrup. More so, the accused/ petitioner is behind the bar for last 156 days and hence, considering his length of detention, he may be released on bail.

Mr. Das, learned Additional Public Prosecutor, has submitted this regard that there are sufficient incriminating materials against the present accused/petitioner. More so, from the FSL report, it also reveals that codaine phosphate is available in the bottles of cough syrup. Apart from that, from the possession of the present petitioner, 25.05 gram of suspected heroine was also recovered and as per the FSL report, it is confirmed that the powdery substance contained heroine. Mr. Das further submitted that the accused/petitioner is not only involved in the present case and from the report of the I.O., it is seen that the present accused/petitioner is a veteran criminal and he was also charge-

sheeted in another case in connection with Gauripur P.S. Case No. 106/2024. Accordingly, he submitted that the I.O. also raised bail objection against the present petitioner.

Considering the submissions made by the learned counsels for both sides and also considering the materials available in the Case Diary as well as the report of the FSL, it is seen that the I.O. has already collected sufficient incriminating materials against the present petitioner and apart from that, the FSL report also verifies the presence of codaine phosphate in the ESCUF cough syrup bottle which were seized from the possession of the present accused/petitioner. From the report of the I.O., it is also seen that the accused/petitioner is also wanted in connection with other cases and he is the main peddler in his entire locality. It is a fact that the entire 22 (twenty two) numbers of cough syrups were not sent for examination in the FSL, but from the report of the FSL, it is seen that codaine phosphates were present in the bottle of the ESCUF cough syrup which were already sent for FSL examination.

In view of the above aspects of the case, I do not find it a fit case to allow the accused to go on bail at this stage and accordingly the same stands rejected.

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

JUDGE

Comparing Assistant