

GAHC010154202024



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

Case No. : AB/1986/2024

NECHAR ALI
S/O LATE JABBAR ALI,
RESIDENT OF VILLAGE LICHU BAGAN, PS DISPUR DIST KAMRUP M
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A DUTTA,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 13-08-2024

Heard Mr. A. Dutta, learned counsel for the petitioner Nechar Ali, who has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as he is apprehending arrest in connection with Dispur Police Station Case No. 680/2024 under Section 20A of

the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State. The learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner.

3. The allegation is that on a tip off that one ganja peddler was selling ganja in an auto-rickshaw bearing registration No. AS-01-NC-5631 parked at Hengrabari Road near Ganeshguri Flyover, search operation was conducted and 105.55 gms of suspected ganja was recovered in a plastic wrap and kept at the backside of the auto-rickshaw.

4. It is submitted by the learned Additional Public Prosecutor that the petitioner appears to be involved in dealing with ganja as the conduct of the petitioner reveals that he was found absconding after the auto-rickshaw was searched by the investigating team.

5. Learned counsel for the petitioner has submitted that the petitioner is not a drug peddler but he is addicted to ganja. The amount recovered from the auto-rickshaw was negligible. The petitioner is willing to cooperate with the remaining part of the investigation which indicates that the petitioner is not a drug peddler but an addict.

6. I have considered the submissions at the bar with circumspection. I have also scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner. However, it appears that custodial interrogation may not be required as investigation is still under progress. I have also considered the submission that the petitioner is a local resident and he is not a flight risk.

7. In view of my foregoing discussions, petition is allowed.
8. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:
 - (i) *Petitioner shall appear before the Investigating Officer within one week and cooperate with the investigation.*
 - (ii) *The petitioner shall refrain from such activities with which he is alleged.*
 - (iii) *Petitioner shall not leave the jurisdiction of the Court without prior permission.*
9. On breach of any of the bail conditions, bail order shall stand cancelled.
10. In terms of the above observations, this Anticipatory Bail application stands disposed of.
11. Send back the Case Diary.

JUDGE

Comparing Assistant