

GAHC010155272024



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

Case No. : Bail Appln./2559/2024

JITEN KARMAKAR
S/O LATE SANATH KARMAKAR, R/O SALAGI TEA ESTATE, P.O.-SALOGI,
P.S.-BAZARICHERRA, DIST- KARIMGANJ, ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. I A TALUKDAR, MS N.RAHMAN,MR. B HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

05-11-2024

Heard Mr. I. A. Talukdar, learned counsel for the petitioner and Mr. K. K. Parasar, learned Additional Public Prosecutor, Assam for the State.

2. By this application, the petitioner, namely, **Jiten Karmakar**, son of late Sanath Karmakar, resident of Salagi Tea Estate, P.O.- Salagi, P.S. Bazaricherra under Karimganj District filed under Section 483 BNSS, 2023 is seeking bail in

Special (NDPS) Case No. 15/2023 arising out of Bazaricherra P.S. Case No. 50/2023 registered under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, 1985, wherein he was arrested on 27.05.2024 and is in custody since then.

3. It is contended by the petitioner that he works as a security guard in the apartment of M/S Monaki Classi HSR Apartment, gateman under Masion at Martali in Bangalore of Karnataka State and he was residing there since more than six months prior to date of the incident. It is stated that he was serving under Masion at Martali in Bangalore to earn his livelihood leaving his family consisting of his wife and three minor children at his house at Salgoi Tea Estate No.2 lane, Salgoi under Bazaricherra Police Station of District Karimganj.

4. It is also stated that earlier the petitioner preferred a criminal revision petition, being Crl. Rev. P. 178/2024 against an order of issuance of Non-Bailable Warrant of Arrest (NBWA) by the learned Special Judge (NDPS)-cum-Sessions Judge, Karimganj in said Special (NDPS) Case No. 15/2023 for his appearance in the case and the Court by order dated 10.05.2024, passed in said Crl. Rev. P. No. 178/2024 set aside the said order of issuance of NBWA against the petitioner dated 04.03.2024 issued by the learned Special Judge (NDPS)-cum-Sessions Judge, Karimganj in said Special (NDPS) Case No. 15/2023 arising out of Bazaricherra P.S. Case No. 50/2023, and that, the Court by the said order dated 10.05.2024 directed the petitioner to appear before the learned Special Judge (NDPS)-cum-Sessions Judge, Karimganj on 27.05.2024 in said Special (NDPS) Case No. 15/2023.

5. Accordingly, on his appearance before the learned Special Judge (NDPS)-cum-Sessions Judge, Karimganj on 27.05.2024 in said Special (NDPS) Case No. 15/2023 pursuant to the order dated 10.05.2024, passed in said Crl. Rev. P. No. 178/2024, the petitioner prayed for his regular bail in said Special (NDPS) Case

No. 15/2023. However, the learned Special Judge (NDPS)-cum-Sessions Judge, Karimganj on 27.05.2024 rejected his regular bail in said Special (NDPS) Case No. 15/2023 and issued custody of warrant. Accordingly, the petitioner was arrested on 27.05.2024 in said Special (NDPS) Case No. 15/2023 and since then he is in custody.

6. It is seen from the copy of the records of said Special (NDPS) Case No. 15/2023 as well as the copy of said Bazaricherra P.S. Case No. 50/2023 that was called for by the Court on 29.08.2024 that on receipt of specific information on 17.02.2023 that one White colour Mahindra Scorpio vehicle bearing Registration No.TR-05-D-0415 loaded with suspected Ganja/Cannabis has been kept in the courtyard of the petitioner at village-Salgai Cha Bagan under Bazaricherra Police Station of Karimganj District, accordingly, Bazaricherra Police GD Entry no. 262/2023 dated 17.02.2023 was made and on being duly authorized, police personnel from Bazaricherra Police Station proceeded to the location, wherein the said White colour Mahindra Scorpio vehicle was parked. With due authorization and following the procedure, the said White colour Mahindra Scorpio vehicle kept in the courtyard of the petitioner was searched in presence of the witnesses and from the said White colour Mahindra Scorpio vehicle 53 numbers of packets, each packet weighing about 10 kgs, in total 530 kgs suspected Ganja/ Cannabis recovered from the middle row and rear seat of the said vehicle. After making proper inventory following the due procedure, the seized Ganja/Cannabis was forwarded to the FSL for its examination. The FSL report dated 07.06.2023 indicated that the seized materials gave positive test for Cannabis. On proper examination of the said White colour Mahindra Scorpio vehicle bearing Registration No.TR-05-D-0415, it is found that the said Registration Number belongs to one Biresh Chandra Debroy of Kadamtala, North

Tripura and it is a Maruti Also LXI and not a Mahindra Scorpio Vehicle. Through proper investigation of the Motor Vehicle Inspector, it was also found that the said White colour Mahindra Scorpio vehicle seized in the case, neither has any Chassis Number, nor has any Engine Number. Though many attempts were made to nab the culprits, particularly, the driver of the said vehicle as well as its owner and the petitioner, but they could not taken into custody as they evaded arrest.

7. Though the family members of the petitioner were asked about the whereabouts of the petitioner, they could not provide police with any proper address of the petitioner. The case record reveals that the vehicle seized in the case was parked at the courtyard of the petitioner for quite some time that was known to him. As such, Police on 31.01.2024 submitted the Charge-Sheet in said Bazaricherra P.S. Case No. 50/2023 under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, 1985 against the petitioner showing him to be an absconder.

8. It is seen that the copy of said Special (NDPS) Case No. 15/2023 has already been handed over to the petitioner and on last occasion i.e., on 05.10.2024, the said Special (NDPS) Case No. 15/2023 was listed for consideration of charge.

9. It is seen that the drugs recovered from the seized White colour Mahindra Scorpio vehicle that was parked in the courtyard of the petitioner amount to 530 Kgs Ganja/Cannabis, a huge amount of commercial quantity.

10. Considering the materials in the case record, this Court is of the view that it is not a fit case to grant bail to the petitioner, named above in said Special (NDPS) Case No. 15/2023 arising out of Bazaricherra P.S. Case No. 50/2023 presently, pending before the learned Special Judge (NDPS)-cum-Sessions

Judge, Karimganj, at this stage considering his detention since 27.05.2024.

11. Accordingly, this bail application of the petitioner, namely, **Jiten Karmakar**, son of late Sanath Karmakar, resident of Salagi Tea Estate, P.O.- Salagi, P.S. Bazaricherra under Karimganj District in said Special (NDPS) Case No. 15/2023 arising out of Bazaricherra P.S. Case No. 50/2023 stands rejected.

JUDGE

Comparing Assistant