

GAHC010155442024



2024:GAU-AS:12302

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

Case No. : Bail Appln./2280/2024

DEBANJAN SAHA
S/O NITYA NANDA SAHA, R/O 146, SHIVAM APARTMENT, VIP ROAD,
TEGHORIA, RAJARHAT GOPALPUR M, KOLKATA EAST, DIST-NORTH 24
PARGANAS, W.B.-700157

VERSUS

UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NCB

Advocate for the Petitioner : MS B GOGOI, MS. P GHOSH, MR J K Bhuyan

Advocate for the Respondent : SC, NCB,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

05-12-2024

Heard Mr. J. K. Bhuyan, learned counsel for the petitioner and Ms. M. Deka, learned counsel appearing on behalf of Mr. S. C. Keyal, learned Special Public Prosecutor for the respondent NCB.

2) By this application filed under Section 483 BNSS, the petitioner, namely, **Debanjan Saha**, son of Nitya Nanda Saha, resident of 146, Shivam Apartment, VIP Road, Teghoria, Rajarhat, Gopalpur M, Kolkata East, District- North 24

Parganas, W-700157 is seeking bail in **NDPS Case No. 151/2023**, arising out of NCB Case No.07/2023, wherein, he was arrested on 18.12.2023 and is in custody since then, the proceeding of which is presently, pending before the Court of learned Sessions Judge, Kamrup (Metro), Guwahati.

3) On receipt of specific information from reliable source that one person namely, Md. Sabir, resident of Bihar was carrying huge quantity of Ganja from Tripura to Bihar in a motor vehicle the NCB officials looked for it and a container truck bearing Registration No. NL-01-AA-5344 was apprehended at Khanapara area at NH-37 near Health City Hospital on 08.04.2023 around 03:40 pm. The NCB officials stopped the said vehicle and on enquiring the driver of said truck, Md. Sabir, he failed to produce any document of the vehicle and consignment on it, stating that those are with one Shah Jahan, who handed over him the truck and that he who is on the way will hand over the documents of the truck. During search of the said container truck in presence of independent witnesses and the driver of the said container truck Md. Sabir, 682.2 Kgs of suspected Ganja in dried flowering were recovered that was kept concealed inside the said container truck bearing Registration No.NL-01-AA-5344 inside a false cavity on the cabin roof, which was removed by cutter and recovered the suspected substance and accordingly, the driver of the said container truck, Md. Sabir was arrested.

4) According to the petitioner, he is no way connected with the case and just for payment of Rs.2,000/- to said Md. Sabir, he has been arrested in the case on 18.12.2024 and in custody since then. Considering his period of detention since 18.12.2023, the petitioner has prayed for his bail.

5) Perused the record of said **NDPS Case No. 151/2023**, arising out of NCB Case No.07/2023 that was called by the Court for by order dated

06.08.2024.

6) Record reveals that said suspected Ganja was recovered and seized in presence of independent witnesses by following the due process. Inventory was also prepared following the provisions laid down in NDPS Act and that after obtaining samples in presence of learned Judicial Magistrate, First Class, Kamrup (Metro) that were forwarded to the FSL, Guwahati for clinical examination. The FSL report dated 18.07.2023 affirmed that the seized items in said **NDPS Case No. 151/2023**, arising out of NCB Case No.07/2023 gave positive test for Cannabinoids Cannabinols including THC.

7) From the case records, it is seen that the petitioner helped the arrested driver Md. Sabir during his stay at Agartala and also followed him to Guwahati, while the said arrested driver was driving the said vehicle From Agartala to Guwahati and the reports also reveal the presence of the petitioner following the truck involved in the case from the CDR details. The report also indicates that he is the supplier of the seized Ganja and through the seized truck it was to be carried to Bihar. In that regard, the arrested accused persons in the case in their statements also indicated the involvement of the petitioner.

8) Though the NCB personnel from Kolkata visited the residential address of the petitioner, it was found locked and came to know from the neighbours that for the last two months, he was not available there and later, during investigation, the NCB found his presence at Agartala, who during the stay of the driver of the said vehicle Md. Sabir used to fund him in cash and also in his account which the driver concerned used to withdraw through ATM.

9) From the case record, it is also seen that after filing of the charge-sheet in the case, under Sections 20(b)(ii)(C)/29 of the NDPS Act on 27.05.2024, the

learned Trial Court i.e., the Court of learned Special Judge (NDPS) have recorded the evidence of three prosecution witnesses so far, out of eight prosecution witnesses, mentioned in the charge sheet.

10) Ms. M. Deka, learned counsel appearing on behalf of Mr. S. C. Keyal submitted that 17.12.2024 is the next date fixed for recording of evidence of prosecution witnesses.

11) Considering such materials in the case record, pertaining to the involvement of the petitioner in said NDPS Case No. 151/2023, arising out of NCB Case No.07/2023 and finding that the trial of the case has already commenced and three prosecution witnesses, out of eight prosecution witnesses, have already been examined and their statements have already been recorded and the next date for recording of evidence is 17.12.2024, this Court is of the view that it is not a fit case to grant bail to the petitioner, named above, in said NDPS Case No. 151/2023, arising out of NCB Case No.07/2023, considering his detention since 18.12.2023.

12) Accordingly, this bail application of the petitioner, **Debanjan Saha** in said NDPS Case No. 151/2023, arising out of NCB Case No.07/2023 **stands rejected.**

JUDGE

Comparing Assistant