

GAHC010155712023



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

Case No. : Bail Appln./2608/2023

SANJIT DAS
S/O LT. NARAYAN DAS,
VILL.- JARILONGBARI, LAKHIPUR, P.S.- TELIAMURA, DIST.- KHOWAI,
TRIPURA.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

06.02.2024

- 1.** Heard Mr. HR Choudhury, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Addl. PP, Assam.
- 2.** The petitioner namely, Sanjit Das has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 07.07.2022 in connection with Special (NDPS) Case No.100/2022 arising out of Bazaricherra PS Case No. 125/2022

registered u/s 22(c)/25 of the NDPS Act.

3. It is submitted on behalf of the petitioner that he was forwarded to custody on 07.07.2022 and since then he is being behind bars. The petitioner is a driver of a transport company and the truck which he was driving was already given in zimma to the transport company. Being a driver the petitioner was not at all aware that the drugs were also transported along with the goods he was carrying in his truck. 5 witnesses have been examined but not a single witness has implicated him. Thus the rigour of Section 37 of the NDPS Act does not act as an embargo as there are no sufficient grounds for believing that the petitioner is guilty of such an offence. It is submitted that the petitioner is not likely to commit any offence as he is willing to abide by any stringent conditions to be imposed upon him. All the seizure witnesses have exonerated him. The petitioner was discharging his duty as a driver of the company. The official witnesses including the police have implicated other two accused but not the petitioner. There is a prima facie case to grant bail to the petitioner who is languishing in the jail for more than 1 year 7 months. It is also submitted that the petitioner is the father of two minor children and his family is dependent on his income.

4. The learned Addl. PP has raised serious objection stating that the petitioner cannot claim innocence at this juncture when charge has been framed against him. He cannot submit that he was not aware that contraband was being transported through his vehicle. It is true that the petitioner is a driver of the National Roadways Corporation but when charges have been framed against, him he cannot claim innocence.

5. It is further submitted that the petitioner was driving the container truck bearing registration No. TR-01-AK-1721. On naka checking 20 cartoons containing 3200 bottles of Codeine Phosphate Eskup Cough Syrup were recovered from the truck which were concealed under the automobile items. Now when the Cough Syrup allegedly were

concealed under the automobile items, the petitioner cannot claim innocence. If he is not aware that this are illegal contraband then why did he proceed with the truck by concealing the contraband under the automobile items.

6. I have scrutinised the LCR of NDPS Case No. 100 of 2022. 4 witnesses have been examined in connection with this case. The merits of the evidence is not brought to the fore at this juncture as trial is pending. I have considered the submissions at the Bar with circumspection. 10 witnesses have been enlisted as witnesses and 4 witnesses have already been examined. This cannot be considered to be a case where many witnesses are yet to be examined which may cause delay in the trial. It is true that the petitioner was arrested on 07.07.2022 but this case cannot be considered to be a case where trial has procrastinated to the extent to curtail the personal liberty of the petitioner as guaranteed by Article 21 of the Constitution of India. The merits and the technicalities of the case as projected by the learned counsel for the petitioner cannot be dealt with at this juncture when trial is under progress. The rigour u/s 37 of the NDPS Act acts as an embargo.

7. Considering all aspects, I am not inclined to grant bail to the petitioner at this stage. Petition is rejected at this stage.

8. However, the petitioner can later apply for bail, if trial is further procrastinated and the petition may be considered as per merits.

9. The trial Court is directed to expedite the trial for speedy disposal of this case.

JUDGE

Comparing Assistant